The problem of discrimination outside the workplace in the European Union.
Abstract

The European Union is the Community made on bases of multiculturalism, diversity and equality between Members and its citizens. From the very beginning of being social actor, the European Union has wanted to fight with discrimination. In the July 2008 the Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation was announced. This essay is about the problem of discrimination on the ground of ethnic origin, disability and sexual orientation in the European Union. According to the Eurobarometer survey these types of discrimination are the most spread within the European Society. With help of this survey I set a hypothesis and I tested it. The question was if the “Old” Member States are more successful with the fight with the problem that “New” Member States. There are acts of law considering and protecting citizens against discrimination. Most of the regulations include the unequal treatment in employment, is why I wanted to make researches about the same problem outside the employment. I checked what kind of minorities protection exist in legal framework of the EU and I concluded that the New Directive Proposal is actually answer for their problems and in the same time legislation changes are not enough.

**Keywords:** European Union, discrimination, anti-discrimination legal framework, minorities in the EU
1. Introduction

International organizations have recognized the right of individuals not to be discriminated against a lot of grounds a long time ago. International agreements exemplify the commitment of the European communities for guarantee of respect for the right to non-discrimination. At European Community level the fighting discrimination has been showed through a variety of joint declarations, charters, resolutions, and legislation related to the promotion of equal opportunities. European Commission claimed the year 2007 as the European Year of Equal Opportunities for All. It was announced that it intends to propose measures in the year 2008 to complete the discrimination legal framework in order to deal with this problem on the basis of religion or belief, disability, age or sexual orientation outside the employment. In the other hand we can say that adoption of the new legislation or new programs are not enough. From the year 1995 the EU is cooperating with the Non Governmental Organizations from social sector. It brings over 1700 organizations, associations and other voluntary bodies at local, regional, not only national, but also European level, representing a wide range of civil society. These include: women, elders, disabled people, unemployed people, migrants, people touched with poverty, gays and lesbians, youth, children and families. Civil society organizations are the most important link between the European Union institutions and its citizens. EU considers its as a main role to play to make the anti-discrimination rights effective. Society can play the key role in eliminating discrimination, because new regulations cannot change the attitudes of the people. European Union, in its anti-discrimination activity, wants to make new actions and regulations in the spirit of diversity and respect. (European Union Official Website)

1.1. Research Purpose and Question

Considering the negotiations and purpose of new directive, and existing documents about discrimination outside the workplace, I found it interesting to study and make research if the European Union is successful on this area.

In order to do this I want to make an analysis of existing legislation and politics of the European Union on this field. Moreover, I want to analyze if the old Member States have less problems with discrimination than New Members.

I will test these hypotheses especially by compiling statistical data about discrimination and minority groups in particular countries.

My aim is to understand the old, but still existing problem of discrimination outside the workplace in Europe, because more documents and laws contain regulations about wider discussed discrimination in labor market. I want to find enough information to be able to answer the following questions:

What are the anti-discrimination policies and legal framework of the European Union?
What are the main minorities that are the victims of acts of discrimination and what kinds of cases are being directed by them to the European Court of Human Rights?
Has the anti-discrimination activity of the EU rendered more effects and influence on the perception of discrimination in the old Member States of the EU than in the New Member States?
1.2 Methodology and Materials

In this essay I will start with description of the most important concepts in the area of my topic.

Firstly, I want to present the definitions of the multiculturalism and equality. These concepts are no separated parts of the European Union Politics. I will use and I will depend on concepts which I will find in my researches.

I want to define what I will talk about in the very beginning. In the area of discrimination I found that multiculturalism and equality is a background and very suitable term describing the European Community.

Next, I want to define and describe the main problem, which is discrimination. In this part I will write the definition and the types of the discrimination, which exist outside the employment. Concepts of discrimination, racism, xenophobia, ableism and homophobia will be explained as the most popular types of discrimination considered in the Eurobarometer Public Opinion research about discrimination. It will be also a background of the activity and issues of this theme in the European Union.

I will continue with the analysis of the European Union legislation. I will focus on anti-discrimination regulations. Discrimination will be showed as violation of basic Human Rights. Primary and secondary legislation of the European Union will be listed by me. In this part I will focus and analyze the contents of anti-discrimination regulations. The legislation I will complete with the European Union’s anti-discrimination politics and institutions. I will do it to see what kinds of gaps exist in legislation. The sources which will be analyzed by me are directives, reports, treaties and other acts of law of the EU.

In next chapter I will focus on the particular grounds of discrimination in the EU. I will show the concepts of Xenophobia, Racism, Homophobia and Ableism in the European Community dimension. I will talk about facts and chronological changes in regulations about this kinds of discrimination in the European legislation and anti-discrimination activities. In the ground of ethnic minority discrimination I will take into account especially the people of Rome origin. I found this minority as particularly most discriminated group of people in whole Europe and I want to detail their issue.

Moreover, I will analyze and show some examples of last years judgments on the following grounds: ethnic and national minorities’ discrimination and sexual orientation discrimination. It will help to show what kinds of complaints are applied to the European Court of Human Rights from the European Citizens. I will also list the problems of disabled people which are given into information by their official representative: European Disability Forum.

Next, I will make an statistical analysis about discrimination in the European Member States till the year 2007. My research I will base on the Special Eurobarometer report. The data are the result of interviewing the European citizens. It means that I will measure the discrimination by its perception of Public Opinion. I will divide all European Union countries into the two groups: EU 15 and EU 12. It will be called: Old Member States and New Member States. The data from Eurobarometer put into tables will help me to test the Hypothesis: The old member states are more successful in the area of non-discrimination than the new members of the European Union.

Finally, I will summarize all information and build up the conclusions with the answers on the research questions.

I will base my research on the Official Websites of the European Union, European Commission, Information Website about anti-discrimination in European Union, Official Website of the European Court of Human Rights and Nongovernmental Organizations. Moreover, I will use information from the books and articles about the Human Rights and
discrimination in general, but also about particular kinds of discrimination to maximal exhaust this topic.

1.3 Delimitations

In my study I wanted to go more into legislation, to see how much the discriminated groups are protecting by the EU law. My material was limited into legislation on the European Union level, without comparing and analyzing the particular countries legislation. It would be very interesting to make such comparison, but I have found myself limited by the time period to write and number of pages in this essay.

Moreover, I was limited to use English judgments of the European Court of Human Rights. There were few judgments in French, but I am not this language speaker and I couldn’t analyze them. I limit myself into the judgments from 2004-2008 to check what kinds of problems are judged last few years and what kind of issues are actual. There was no judgment applied from disabled people, that’s why I didn’t write it.

2. Background

In the new legislative and work program on 23 October 2007 The Commission announced that it would propose new initiatives to complete and fill the gaps in the European Union anti-discrimination legal framework. The new proposal is presented as section of the ‘Renewed Social Agenda: Opportunities, access and solidarity in 21st century Europe’. Moreover, it is accompanied by the Communication ‘Non-Discrimination and Equal Opportunities: A Renewed Commitment’.

Member States and the European Community have signed The UN Convention on the Rights of Persons with Disabilities. This document is based on the main principles and goals of the European Union, which are: nondiscrimination, participation and inclusion in society and equal opportunities (Proposal for a Council Directive).

The goal of this Directive Proposal is implementation of the rule of equal treatment between persons regardless of religion, belief, disability, age or sexual orientation outside the employment. It submits a framework for the forbidding of discrimination on every ground and establishes a minimum standard of protection within the European Union for people suffered with discrimination.

It supplements the existing European Union legislation under which the forbidding of discrimination on grounds of religion or belief, disability, age or sexual orientation pertains only to employment, occupation and vocational training (Proposal for a Council Directive).
2.1. Multiculturalism and equality in Europe
“For diversity against discrimination”

2.1.1. Multiculturalism

In the age of New Europe, in which the European Union plays various roles as a global actor, values such as integration, migration and multiculturalism have a big influence on changes in the European Community. When we think about the Europeans, we see the complex diversity, not only national, but also cultural, religious and in the many other aspects.

Different cultures are not moral subject into which we can owe responsibilities of justice. If we want to be fair with cultural diversity, we should not think about cultures as the objects, but about people bearing them. (Barry, p. 67)

Here appears the need of the cultural identity, which is an important contributor to people’s wellbeing. This identity, identifying with a particular culture makes people feel they belong and gives them a sense of security. An established cultural identity has also been linked with positive outcomes in the areas such as health and education. On these grounds groups fight and campaign for the exemptions, which the special rights are. They claim that general laws apply to every people in community, but not to them. That is why they want the individual treatment in law.

Multiculturalism is here also a political and moral term, which makes the EU to edit various policies. Most of them are caused by some controversial points, because they came from the notion of the citizenship. People, who are defending the idea of multiculturalism in Europe claim, that belonging to a state should not make difficulties for some minority citizens on account to their origin culture. It is possible that liberal societies may make difficult the belonging to the state for these citizens by retaining customs and laws that give privileges to the people of Christian origin. The multicultural theory says that it is unjust to demand in the law much more sacrifices of the minorities than of the majority (McKinnon 2008: 219-220).

Multicultural thinkers find the idea as problematic, because of controversies over immigration and asylum after terrorist bombings in Madrid and London, which caused some fear of the support of diversity. They prefer the idea of integration, which different the cultural groups may equally belong to the state nation whit saving social customs and rights. Multiculturalism gives a question of how to protect common belonging to a nation which may be divided by cultural diversity.

Cultural diversity is important because of the aesthetic benefits, like diversion of forms of dance or music, which is present in everyone’s lives. Despite of it, the multicultural theories tend to focus on the inequality status. The problem is, that it may be premature to posit that minority cultures’ fight for the justice differ for claims for equality and social justice.

People belonging to the minority groups should not be disadvantaged because of their cultural origin. Reliefs for any iniquity, which touches them, should not focus on their culture. It can cause not only social conflict, but also social and economic problems of these people. We can say that multiculturalism can emphasize the status the same as economic inequalities (McKinnon 2008: 223).

Very interesting issue is that, liberal democracies believe in respect of different cultural norms and in the same time, they have to think how to solve the problem, when beliefs and practices of the minority are illiberal. What is more, the problem with showing the difference too sharply between liberal and illiberal cultures is that most of societies have liberal elements. For example, in liberal societies exist the laws against sex discrimination,
but women still feel pressure on playing the role of holding domestic duties and childcare responsibilities. What is difficult, that liberal ways of life contain some liberal aspects.

Another issue linked with the multiculturalism is the politics of recognition. It refers to the policies designed to promote respect for minorities in the diversified society. These politics claim that justice is not only a question of rights, but also of prejudice and discrimination. The politics of recognition focuses on different languages, symbols, and other people values. It recommends bigger political and media representation of the minority groups.

The cultural diversity in the European Union causes political theorists to focus on inequalities deriving from the cultural adhesion. Multiculturalism can be analyzed as a policy and an ideal. As a social goal it is challenging, but worth to combat for (McKinnon 2008: 234).

2.1.2. Equality

The biggest and the most primary rule, which always leads the EU and its citizens is equality. Equality is a general term, which means that the European Union’s citizenship gives the right to protection from discrimination on all possible grounds. Besides of dignity, freedoms, solidarity, citizen’s rights and justice, the equality is enshrined in the Charter of Fundamental Rights of the EU. As a basis, it says that everyone is equal before the law. Moreover, any kind of discrimination is forbidden.

After the II World War, the equality was understood as a non-differentiation and was the idea that in the perspective of justice, the race should no matter. In this case, the policies like affirmative actions have permission only to enable disadvantage groups of people to enjoy the same goods as other people in society. In every location of post-war immigration, the positions of minority groups grew. In the same time it gave experiences that inequality not always involves goods like money, but often it involves the social marginalization and discrimination on areas like religion and beliefs.

What is more, the EU claims the principle of the Equal Opportunities, which are the ban on discrimination on grounds of nationality and equal pay for men and women. Both of these are confirmed by the Treaty Establishing the European Community. The principles should be applied to all areas of the economic, social, cultural and family life.

The EU citizenship gives a lot of rights for its owners. One of these is the principle of non-discrimination, which was added to acquis communautaire in the Treaty of Amsterdam in 1997. The 13 Article gives the power to the Council to take proper acts to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

Not only the EU, but also every Member State should recognize that all citizens deserve for full equality of opportunities to develop self-respect and autonomy. It requires stable cultural structure, which is a basic set of customs and beliefs. For protection of these cultural structures, it is needed to grant group-specific rights. These rights enable a minority group to save and preserve traditions. Moreover, it enables the group to protect itself from policies of the general society.

The idea of equality is fundamentally liberal. It seems to request to treat people the same, what is the problem in the context of difference. Equality is bound with the toleration. It is grounded on a justice and goals at reversing the unequal public exclusion of differences of the community, which unjustly intensifies marginality and oppressions (McKinnon 2008).
2.1.3. Discrimination

Despite of the various law regulations and promoting idea of equality, the EU still has the problem with acts of the discrimination and it is trying to combat with it. But what the discrimination is?

Dictionaries and encyclopedias explain the word “discrimination” as one which comes from Latin “discriminatio” and means to tell a difference.

Firstly, it is an act or instance of discriminating or the power of making fine distinctions. We call it something that serves to differentiate.

Moreover, it is a treatment or consideration of, or making a distinction in favor of or against, a person or thing based on the group, class, or category to which that person or thing belongs rather than on individual merit: racial and religious intolerance and discrimination.

The discrimination means to treat people worse or negatively for any reason. In the dimension of Human Rights it means to make a distinction within individuals or groups based on a banned area. Behind it there is an idea that people should not be put at a disadvantage because of their racial and ethnic origin, religion or belief, disability, age or any similar reason. It is prohibited by law (The European Commission Official Website).

In practice it is a plentiful appearing form of social exclusion in community. It is visible in acts like worse, unequal treatment, than in other, similar situations because of some special feature of person, for example: gender, sexual identity, age, being disabled, religion, beliefs, ethnic or race origin.

According to definitions placed in the Official European Commission Website, we can divide the general concept of discrimination on three main areas.

First one is the direct discrimination. It means that person is treated less favorably, than other person is or could be treated in the same circumstances, the reason can be the membership of minority group. It happens, if a person's race, sex or other factor etc. had influence on the rejection of the service or the job. At times, there is only one way to state if there is discrimination act. It is by looking at the follow-ups on groups of people. If physical disabled people, using wheelchairs cannot get near the service counter, then it is visible that they are not being proper served (Council Directive 2000/43/EC).

Second one is indirect discrimination. It appears, when apparent neutral conditions, criteria or acts are using for everyone, but in a special way it touches some social group. In many cases it gives the base to privilege some group of people. It evolved to contain unequal treatment which gives effects from the action of principles or policies which are not themselves seemingly and intentional discriminatory (Council Directive 2000/43/EC).

Third one is harassment. It is every physical or verbal act which insults or humiliates others. This act can interfere with someone’s ability to do a job or receive a service. It have to be conceded to be a kind of discrimination when unwanted act directed to any of the grounds takes place with the effect of contravening the dignity of a person and of making an adverse or abasing environment. Harassment can be a single event or several events in some period of time. It can be: threats, verbal or physical abuse, unwelcome remarks about ethnicity, religion, disability, age etc. It can be also presenting racist symbols (Council Directive 2000/43/EC).

Manifestations of discrimination can be: refuse to entrance to restaurant, café, disco, club, hotel, or refuse of service in bank or other place to person who belong to any minority group, because of being the member of this group; refuse to help in any health care service to a person belonged to any minority group; housing the people belonged to any minority group in specified territories or districts, what is bound with the term of “ghetto”; bad treatment, including disturbing the physical and mental inviolability and insulting any person for the reason of being member of the minority group.
What is more, we can divide discrimination on various types: racism, sexism, homophobia, xenophobia, ageism, ableism and lookism. In next chapters I will expand mostly the problem of discrimination on the ground of ethnic origin, disability and sexual orientation. From that reason I want to define the concepts of racism, xenophobia, ableism and homophobia.

2.1.3.1. Racism

A “race” is defined by physical features as: body and face profile, skin complexion, amount, texture and color of hairs. These characteristics were the basics for racism, which is a historical concept (Michałowska 2007: 58). Ideology of race has roots in the nineteenth century as a biologist’s construction of various “race” categories. These were divided into European super race and others less valuable. It was mainly the effect of colonization, slavery of Africans and influence and power of Europeans in Africa, Asia and America, where the inequalities were born. For white race it becomes very natural to boss others (Essed 1996: 7). Nowadays, racism is a common and major international problem, in 21st century it is partly considered as a result of the Holocaust and decolonization. Discourse is especially about ethnicity, identity and culture in conflict with post-modern cultures (Essed 1996: 8).

The concept describes negativity and discrimination against group for practically any reason. For example, in France it is sometimes used to characterize prejudices, which are based on gender, sexual orientation or age. Usually, racism is discriminating innocents on the basics of their ethnic, racial identity or immigrant status.

Some scientists say that it is especially directed to the case of ethnicity, which is based on a myth of a collective origin, which normally is connected with it native features. These features are language, religion, customs or inborn and acquired physical characteristics. These features often provoke not only the misprision and discrimination, but also the violence. The color of complexion is not only sign of difference on which racism is based. Prove for this is the history of anti-Semitism (Fredrickson 2002: 140).

“The new racism” is the idea of thinking about differences which reifies culture and makes it to do work of race. A big amount of immigrant from colonies in England and France, entreat using the culture to differentiate newcomers for those who are native. After fall of immigrants, in England the culture is assumed to be unchanged just as a skin color, but in France the dark skin color is accepted if newcomers want to assimilate. Assimilation causes that minority cultures are loosing their native cultural identities (Fredrickson 2002:142).

In most of racial discrimination acts, religion and beliefs are central difference between prosecutors and prosecuted. The differences are basically ethno religious more often than ethno racial. It is difficult to talk about one concept of racism, because it is related to two phenomena.

Firstly, it is ideological representation of various racial and ethnic groups, which have different historical relations with a white race. Here we can give the examples of colonialism and labor migration. Secondly, after II World War appeared the similarities in the social insight of various racial - ethnic representing a cultural threat (Essed 1996: 9).

Social science definition of racial discrimination includes two elements. First one is differential treatment on the basis of race that disadvantages a racial group. We talk about this type, when member of one racial group is treated less favorably than a member of another racial group in similar situation and suffers negative effects. Second is treatment on the basis of inadequately justified factors other than race that disadvantages a racial group. We talk about treatment based on inappropriate justified variables other than race effects in adverse racial consequences (Blank 2004: 39-40).
These types are linked with the area in law. This is disparate treatment and disparate impact discrimination. First one exists when an individual is treated less favorably because of race. Second one happens, when behavior or practice that does not involve directly race and has bad influence on members of a racial group without a sufficient reason (Blank 2004: 41).

In Europe people of color are often first- to third- generation immigrants. Racism is banned, as not compliant with fundamental values. The European Union works in a preventative and repressive way to fight with all racism forms.

2.1.3.2. Xenophobia

The word came from Greek and means: ‘stranger’ and ‘fear’. In reality Xenophobia is the antagonism or aversion to unknown people. The definition is bound with Ethnocentrism, which is the statement and belief of the ethnic groups that their own culture is the only perspective. From that perspective they see and estimate other cultures. It is bound with the believing on own group and culture superiority. The definition is usually used to describe a fear or dislike of foreigners or different, than oneself, people.

It is fear of strangers or foreign countries. In other words, this means an aversion to foreigners. Xenophobia is a feeling or perception-based social structures and ideas, rather than on rational and objective facts. A xenophobic perception of the world reduces the complex social and cultural phenomenon of the simplified, black-and-white scenarios. The most cruel manifestation of xenophobia is the extermination (genocide of Jews, Gypsies - Roma and Sinti, homosexuals, genocide in the Balkans and Rwanda, extermination Aboriginal etc.). Others are exiling (New Common Encyclopedia 1995).

Here we have different types of discrimination. It is: intentional discrimination, subtle discrimination, and statistical profiling, which involve behaviors of individuals and organizations. The next one involves discrimination and its practices embedded in an organizational culture. Nowadays, discrimination includes more than just direct behavior, because it evaluated into other kinds, which can be subtle and unconscious (for example nonverbal). Moreover, discriminating an individual can be based on overall assumptions about members of a racial group, like statistical discrimination or profiling. Discrimination often happens as a result of institutional procedures (New Common Encyclopedia 1995).

2.1.3.3. Ableism

Disability is a long-term condition in which there are some limitations of the proper functioning of person. These limitations are the effect of reducing the efficiency of the physical or mental functions. It is also the damage, or loss or mental defect, physiological, anatomical structure of the organism. This loss may be total, partial, permanent or periodic, congenital or acquired, stabilized or progressive.

Ableism is a term, which is also used as Handicapsim. It is aversion to disabled people. It can be manifested both direct aggression and disregarding the needs of physical disabled people in architecture (difficulties in movement). Practically, it means building environments, which are not accessible to disabled people. All products, services, and societal opportunities should be fully accessible, welcoming and usable for as many different types of abilities as much as it is possible (Michałowska 2007: 203-204).
2.1.3.4. Homophobia

Homophobia is a reluctance and hatred towards people of homosexual orientation, to gay men and lesbians or their lifestyle, culture or general reluctance to people with different sexual orientation than heterosexual. In many parts of the world people with different sexual orientations (other than majority) are discriminated against taking various forms, from the indignity of murder (hate speech and hate crimes). In many countries, homosexuality is still a crime, and in some subject to the death penalty. In Europe, although there have been some steps in the direction of legal changes, many people still sees homosexuality as an illness, mental disorder or unnatural behavior (Anti-discrimination Glossary).

Criminal laws against homosexual acts are still common, nut the number is getting smaller. Discrimination against lesbian women and gay men is very widely accepted than other types of discrimination, while homophobia is often compared to racism and sexism. Lesbian women and gay men are perceived differently from each other, but still both groups are much stigmatized.

What is interesting, heterosexual individuals are effectively daunted from discussing lesbian and gay problems, because their own sexual orientation may be questioned. There is no similar issue, which exists for backers of racial and cultural minorities.

In the Christianity or in the other main religious and cultural traditions there is no uniform anti - homosexual tradition. In some societies being homosexual is tolerated until the men and women are getting married and having children. In other type of societies there exists a variation between the active and passive roles in men homosexual activity, where the active partner stays free of homosexual scar (Sanders1996).
3. European Anti-Discrimination Legislation

"The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms...principles which are common to the Member States."

Article 6 (1) Treaty on European Union.

The European Union has been active in the combat discrimination. At the beginning of its existing, reconcile a Europe divided by nationalistic and ethnic conflicts was one of its most pressing missions. The main goal for a long time was to prevent discrimination on the areas of nationality and sex discrimination. In the year 1997 was a serious turning point. The Member States agreed to far reaching changes to the Amsterdam Treaty. The European Community got the new powers to fight discrimination on the areas of racial and ethnic origin, religion and belief, disability, age and sexual orientation, and the power to fight sex discrimination was widened. Next, the Council unanimously adopted two Directives and the Community Action Program in 2000.

3.1. The Primary legislation and Lawmaking Institutions

The development of the European Union legislation as to discrimination we can see as bound with the development of the constitutional law of Member States. The Treaty of the European Coal and Steel Community gave way to a EU base on fundamental Human Rights with special focus on discrimination. A history of this evolution is needed for understanding the development of the legislation with discrimination as a case law.

The first anti-discrimination principle was the Article 119 of the Treaty of Rome about equal pay in 1957. It was drafted and implemented by Member States in the 1961 and it has been acknowledged as a “slender historical thread”. Besides founding of the Court of Justice, problems of equality and discrimination were skirted over for forty years, till the Amsterdam Treaty (Carlson 2007: 36-37).

The Maastricht Treaty in the year 1993 has established the European Union based on the European Communities. It was concerned as a big step in the process of creating the closest union as it is possible, among the European people, and since then: European citizens (Carlson 2007: 40).

In 1997, the Treaty of Amsterdam was another step directed into people. It was move into effective and more democratic dialogue with Europeans. It confirms the protection of fundamental rights through applying Community law. The Treaty established sanctions for Member States, which did not found the principles of the European Union. These principles are: freedom, democracy, human rights and rule of law. Article 13 has been addressed to the problem of discrimination. It gave power to the Council (after consulting the European Parliament) to take measures to fight discrimination based on sex, racial and ethnic origin, religion and belief, disability, age and sexual orientation. It expanded the definition of Rights of the European Union (1999) has clarified the rights of the Europeans. Article 23 of the Charter says that equality between men and women must be ensured in all areas. But positive discrimination is not forbidden by this article (Carlson 2007: 41-44).

Treaty of Lisbon from the year 2007 promotes the principles from the Charter of Fundamental Rights and social freedom of the citizens. It claims the new mention of the European Union, which is the Europe of rights and values, freedom, solidarity and security.
The Charter of the Fundamental Rights, especially Articles 21 and 23, contains the principles of non-discrimination, respect for diversity and equality. It also says about rights of a child and elderly and integration of persons with disabilities. It prohibits any discrimination on grounds of sex and requires equality between men and women to be ensured in all areas (Charter of the Fundamental Rights, 1999).

The European Court of justice is the major actor in the area of European Union lawmaking. Especially on the ground of respect to discrimination it began its jurisprudence in the 1970’s (Carlson 2007: 51).

3.2. The Secondary Legislation

The secondary legislation is promulgated in the EU and stands in the hierarchy of law behind the treaties and international agreements. The secondary instruments are: regulations, decisions, directives and case law. The difference between them is that regulation has general application, decision and directive binds country to which is addressed.

All of them touched the issue of discrimination, but the most of source of law and focus is on the directives and case of law about sex discrimination and parental leave. For example Social Security Directive from the year 1978, which has prohibited different treatment and claim respect to social security schemes on the ground of gender (Carlson 2007: 52).

The special goal of the EU is mainstreaming. It is systematic integration of gender equality into all structures, policies, programs, projects, etc. The aim is to neutralize “male-centered” structures. This goal is based on the principle of equal treatment between men and women. A Roadmap for Equality between Women and Men for 2006-2010 has been issued to make progress and efforts in the area of gender equality (Carlson 2007: 75).


The Racial Equality Directive from the year 2000 implements the principle of equal treatment between people regardless of racial or ethnic origin. It gives protection against discrimination in employment and training, education, social security, healthcare and access to goods and services. Moreover, it contains definitions of direct and indirect discrimination, harassment and victimization. It gives victims of discrimination a right to make a complaint through a judicial or administrative procedure, associated with proper punishments for those who discriminate and it shares the burden of proof between the complainant and the respondent in civil and administrative cases. Furthermore, this directive rules for the finding in every Member State of an organization to promote and claim equal treatment and provide even minded help to victims of discrimination.

The basic rule of all of the directives is that every person should to be treated equally and fairly. A duty of the European Union is to protect this fundamental human right. The European Union is to elaborate an area of freedom, security and justice across the continent. It is the same in the rule of securing equality and equality of opportunity for giving to everyone an equal chance to realize their potential and achieve what they are able to. Pursuant to the directives about discrimination, it can "undermine the achievement of the objectives of the EC Treaty, in particular the attainment of a high level of employment and of social protection, the raising of the standard of living and quality of life, economic and social cohesion and solidarity". Moreover, it can compromise the goals of the European employment strategy.
The Treaty Establishing European Community set out in Article 13 following jurisdictions. The Council can by the acting with one accord on a proposal from the Commission, and after consultations with the European Parliament, may take actions to combat discrimination in the ground of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. The directives assure protection and effective right to retrieve to everyone who is a victim of discrimination or who considers that they have been unequal treated because of their personal features.

Member States can choose to promote reconciliation and found a system for assortment cases of unfair treatment voluntarily through discussing. They have to ensure that people suffering unequal treatment have the right to be adhered and represented by their trade union or by specialist associations or organizations. Governments have to make sure that the sanctions are effective and proportionate.

Members are required under EU anti-discrimination legislation to found the bodies, to secure people touched with racial discrimination to exercise their rights. In many of the Member States equality bodies also help people suffering from discrimination on the grounds of religion or belief, age, disability, sexual orientation and gender. The organization chart and part of bodies differs from country to country.

Most of bodies are part of Equinet (the European Network of Equality Bodies), which expands collaboration and facilitates the interchange of information and experiences between the particular organizations. Equinet began as a two year project “Strengthening the co-operation between specialized bodies for the implementation of equal treatment legislation” in the years 2002-2004 and was funded by the European Commission (The European Union Official Website).


The Council directive from the year 2004 implements the principle of equal treatment between men and women in the access to and supply of goods and services. This directive maintains discrimination based on sex, harassment and sexual harassment, and says, that these kinds of discrimination also take place in areas outside of the labor market.

It promotes gender equality, of the interests of men or women and the freedom of association. Moreover, it protects the women and forbid the less favorable treating them in all areas of social life. The directive gives legal protection to all people suffering sex discrimination (Council Directive 2004/113/EC).
3.3. The law adopted from the United Nations Legislation.

3.3.1. Universal Declaration of Human Rights

It is the resolution from the year 1948 adopted by the United Nations. It concerns the fundamental human rights, the rights of the individual identified in the following fields: civil, political, economic, social and cultural. It guarantees the right to protection against the discrimination. It gives the freedom of beliefs, religion and thought. It gives the right to citizenship, free movement and free choice of living place. According to this document every Human Being have right to general freedom, equality with others, life, work and rest (New Common Encyclopedia, 1995).

In the very beginning, declaration was merely standard - as the resolution of the UN it was not created as the international law. Nowadays, most lawyers dealing with international law consider it as customary law, which applied for its widespread application. On the basis of the Declaration from 1966, there was adopted the International Covenants on Human Rights, which, as international agreements since the beginning were forcing in all of Members. Today it is the foundation of human rights protection system of the United Nations. Many common, regional, general and specified conventions and international acts of law, linked to the human rights, refer to this declaration. It is political and moral model for constitutions and legislation of many countries (Michałowska 2007: 49-50).

3.3.2. The UN Convention on the rights of persons with disabilities

The European Union signed the United Nations treaty on disability rights in the year 2007. This was the first convention of the UN, which The EU signed and participated. This Convention covers the rights of people with disabilities and its aim is to ensure that people with problem of disability can fully enjoy human rights and fundamental freedoms on an equal ground with every other people.

The EU statement says that it is a proud and success of the European Union to sign the new disability strategy: anti-discrimination, equal opportunities and active inclusion. It showed that Europe is at the good way to maximum strengthening the rights for people with disabilities (EU Statement - United Nations: Convention on the Rights of Persons with Disabilities).

3.4. New Directive Proposal

In the 2nd July 2008 Commission of the European Communities has proposed a new directive for the Council Directive. The main aim of this possible future act of law is implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation outside the employment. It can set out the general framework for the non-discrimination on these areas and be a minimum protection for people who suffer these kinds of discrimination. It will supplement the anti-discrimination legislation made until now.

The reasons of making new legislation are for example that the protection from sex discrimination under Directive 2004/113/EC is not as extensive as in Directive 2000/43/EC. Furthermore, there is a need of addressing the measures regulations, which emphasized the specific disability-related discrimination. The level of legal protection to secure non-discrimination values is different in particular Member States and between discrimination
areas and that is the ground for new legislation to cover all Members as one (The New Directive Proposal 2008).

3.5. Initiatives of the European Union for fighting with discrimination

Program Progress is one of the EU’s initiatives to fight discrimination and assure that its legislation is correctly implemented. It replaced Community Action Program to combat Discrimination and it works among the 27 EU Member States, EU candidate and EFTA/EEA countries.

It was made because legislative measures alone are not enough to fight with discrimination within society. Legislation has to be supported by concrete and effective actions. The EU Council launched this program to help make European anti-discrimination policy a reality.

It is the EU’s employment and social solidarity program, which includes projects to improve conscience among the community, information campaigns directed to citizens, researches, training, and support to European networks of non-governmental organizations (NGOs) fighting with discrimination.

The 4th section of this program is entitled “Anti-discrimination and diversity” and was made to help implementing the principle of non-discrimination and to promote its to expand in all EU policies.

Furthermore, it supports the work of particular Member States to promote more and better works and equal opportunities for all in the EU. Works in 2007-2013, funds operations around the areas of: Employment, Social inclusion and protection, Working conditions, and Gender equality (The European Union Official Website).

“For Diversity. Against Discrimination.” is the information campaign running by the European Commission, Directorate General for Employment, Social Affairs and Equal Opportunities. It is funded through Progress, the EU’s employment and social solidarity program.

This campaign works in all Member States to build up awareness of discrimination, and the legislation, which exists to fight it, and promotes the diversity. It works to fight discrimination based on a person’s race or ethnic origin in all areas of life. This is contained in the Racial Equality Directive.

Since 2003, the campaign has made a lot of positive actions. It has brought together around 500 organizations, organized hundreds of activities like an yearly journalist award, a annually truck tour which has visited all 27 Member States, artistic and sports events, conferences and a very successful cooperation with the media, especially music channel MTV (The European Commission Official Website).

3.6. The European Court of Justice

The European Court of Justice promotes gender equality through sex discrimination judgments. The EU backed this body of law with the promotion of gender equality in all policy areas and activities and specific measures to promote this through a series of gender equality programs. In the year 2006, the European Union incorporated a Roadmap for Equality between Women and Men.

It has six priority areas for EU gender equality actions for the period 2006-2010. These areas are: equal economic independence for women and men; equality in work, private and family life; equal participation of women and men in decision-making; elimination of
gender stereotypes; eliminating gender-based violence and trafficking; promotion of gender equality outside the EU.

Furthermore, the European Union funded European Institute for Gender Equality in the year 2006. It was not created as a court hierarchically more important than particular member state’s courts. It had to serve with it help with adjustment to the Community Law. (Piontek and Zawidzka 2003: 334) Its tasks include raising awareness about EU gender equality policy. It gathers and analyzes data and develops new methods.
4. Particular grounds of discrimination in the EU

In following chapter I want to describe the cases, actions and anti-discrimination activity of the European Union.

4.1. Racism and Xenophobia in the EU

Usually, the basics for discrimination are shaping during the raising in the point of view that nobody is born with prejudices. It is the effect of bad individual experiences or of cultivate of negative stereotypes. All of European Union institutions refer to this problem, especially European Council. Article 13 Treaty on European Union gives the rights to take the position about this problem. It is very complicated issue. About its complexity and durability can attest the big number of documents, which are not practically and permanently solving it. The question of tolerance needs long-term efforts directed into education, influences on the awareness and the changes of attitude (Michałowska 2007: 195).

The European Parliament is the main forum in the EU, where the problem of racism and xenophobia is discussed. It presents the reports and adopts the resolutions. In the 1986 the EU adopted the declaration in the case of racism and xenophobia, which was made to sign the importance to alert all citizens about dangers caused with these problems. Also it was linked to need of preventing and restraint of all acts and forms of discrimination. Parliament adopted two resolutions in that case in the year 1994, two in 1995, 1997 and 2000 (Michałowska 2007: 196).

In the 1997 the European Monitoring Centre on Racism and Xenophobia - EUMC with the head office in Vienne was established by the European Council. The aim is to profiling analyzing the information bound with this phenomenon in the possibly best and independent way. Moreover, the aim is to maintenance the relations with the Council of Europe for averting the duplication of work. It makes researches, interviews, prepares studies and checks the possibilities of its accomplishment. It makes documentation and formulates the proposals and opinions for the Community and the Member States. Furthermore, it coordinates the activities of European Network on Racism and Xenophobia - RAXEN, which is cooperating with the national research centers, NGO’s and member states’ institutions. The elaborated by the EUMC information focuses on the following questions: free movement, free media information, education, vocational and youth training, the social policy, free circulation of goods and culture (Michałowska 2007: 197).

The Race Equality Directive (2000) the first year of full applying had in the year 2004. It is still not so much accepted in some member states. Germany, Luxembourg, Austria and Finland did not implement the decision to state legislation. The cases of these states were applied to the Court of Justice of the European Communities (Michałowska 2007: 198).
4.1.1. Ethnic minorities

The European Union, practically, does not take care of the ethnic minorities problems. It leaves the case of ethnic problems to the particular member states and their internal legislation. There is no specified and clear strategy on this ground. The Community is indirectly supports the ethnic groups by protecting the minority languages. We can estimate that in the all European Member States, apart from Portugal, the ethnic minorities exist (Michałowska 2007: 198).

In the last years, a lot of states have confronted new challenges. It is linked with the new perception of some citizens group in the context of the events in 2001 in the New York and later in the terrorist attacks in London and Madrid. It built and emphasized the islamophobia.

In the other hand, the new challenges are bound with the revitalization of ethnicity. Newcomers from the colonies and workers do not have good relations with the nations. The ethnic groups are closing each other in the culture ghettos in some districts of the cities. A very small percentage of new residents or citizens is assimilating with the majority by coming out from the barriers of ethnicity. These are making progress in the area of occupation and society. Instead of integrated multicultural society, there exists another society in parallel. The nationalisms and problems are waking up and growing also in the neutral countries (Michałowska 2007: 199-200).

4.1.2. Roma

Europe is resident by about 8 million Roma, almost three-fourths of who reside in Eastern Europe. A good understanding the Romani predicament is provided by the concept of marginality. It denotes the domination of one group of people by another. Marginality is a multidimensional notion with various political, social, and economic aspects. Furthermore, that status itself can change a group or an entire nation which was once politically excluded can, in some time, find itself in the dominant position.

The Roma's socioeconomic situation appears to be the worst in Bulgaria and Slovakia, where their often extreme poverty is worsened by the total indifference of the government to their problems. The prize for the most overtly anti-Gypsy public statement by a leading East European politician would probably go to Slovak prime minister Vladimir Mečiar, who claimed that the Roma constituted a “socially unadaptable population” with a very high birth rate of “children who are poorly adaptable mentally, poorly adaptable socially, children with serious health disorders, children, simply, who are a great burden on this society.” This statement may be the general view of the opinion about Romes in the Europe (Barany, 1998).

In the year 1984, the European Parliament adopted a resolution, which was drawing attention to discrimination of the Roma in nine EU members. Since then, there were regularly appeared declarations of Parliament or the Commission; they published reports describing in detail the problems of this community. Few gave it all - it is difficult to consider that the situation of Roma in the western part of the continent somehow dramatically improved under only the pressure of the demands. Roma themselves are talking about the continuation of a specific type of apartheid in Europe, which in varying degrees is concerned in different countries.

Statistical figures on the situation of Roma in Europe, available in the analysis of the European Commission or non-governmental organizations as the European Roma Rights Center (ERRC) and the European Roma Information Office (ERIO) are appalling. Not care about whether new or old EU countries, Roma children are segregated in the education system...
(as it were is treated with the key 50 - 90% of children). In the case of Romania, only 20% of Roma children in general go to school. The problem this creates a vicious circle: close to them in labor markets, statistics show that unemployment among the Roma may reach 90% in some localities such as Bulgaria or Romania. In the research carried out in Hungary, for example, indicates that only 8% of parents would like to agree on to the fact that their children learn in the class with the Roma children (Krzeczunowicz, 2005).

The EU gives special attention to the Gypsies. It is bound with their permanent economic and social disability. They are the most discriminated and marginalized minority in Europe. Their living conditions are dramatically lower than EU standards, into which member states trends. They can get money from the program EQUAL since 2001, which can help them to make some activity in the employment and social life. Another problem is that administrative officers and states don’t know how to make these people active. Prove for the EU helplessness was the subvention of 8 million zloty’s for protecting traditional gypsy occupations: fortune-telling from hand and cards (Michałowska 2007: 200).

4.2. Disability

EU is making big efforts to limit the negative effects of the disability problem. These acts and efforts have evaluated from dominant initiatives, which were only helping disabled people adapt to their disabilities, to another approach. In the new approach the aim is to define and delete barriers, which stop these people in the way to full participation in the all sectors of social and public life (Michałowska 2007: 203).

Disability is one of the most important social issues. The number of people with disabilities in the European Union is about 10% of the all population. In the old 15 Member States disabled person has the same social status, as everyone else and the invalid trolley on the street surprises no one. Standard is that the buildings are attuned to the needs of the disabled, the norm is attuned housing for people with disabilities to fulfill their needs. Very important is the lack of communication barriers (Szluż, 2007).

The main point for the protection of dignity of people with disabilities has been the Article 13 of Amsterdam Treaty. Disability and elder age were there mentioned with other types of discrimination for the first time. It was also in the Article 21 of Charter of Fundamental Rights of the European Union in the Chapter: Equality. Article 26 recognizes and obeys the right of the disabled people to use the measures needed to social and occupational independence and integration. Instead of the progress in social sensitivity and understanding of the needs of persons touched by disability, they still suffer impediments in access to various areas of social life. The main idea is to improve their chances for full inclusion into social and occupational life, give them back the self-confidence as valuable and independent citizens.

Despite of these tendencies in the behaviors and attitudes, there still exist some system barriers. The poorer the state is, the more barriers it has. It is: lack of cheap transport, limitation of the possibilities to education and training, lack of the support system. The Union admitted that the full participation in the social life is not possible, if somebody has difficulties in movement (Michałowska 2007: 203-205).

In the 1993 the European Commission adapted the program about community activities for the available transport. Since 2004 The Commission seeks to reinforce the EU's involvement in efforts to improve the mobility of persons with disabilities by facilitating access to travel by rail and sea, the development of passenger air transport and promoting best practices in collaboration with the industry and its users. The newest initiative is Regulation
of the Parliament in case of the rights of disabled people bound with the air-borne transport (European Parliament, 2004).

The Disability Action Plan (DAP) 2003-2010, adopted by the EU, provides the theory into the practice. It is in use for making sure that disability problems are present within all Union policies. In the 2008-2009 it focuses on stimulating inclusive participation of disabled people and to work for full enjoyment of fundamental rights. It mainly works on accessibility. Access to goods, services and infrastructures are very important to uphold non-discriminatory and inclusive forms of participation in many areas of everyday life in society, along with the elimination of barriers to education.

Progress in the main policy grounds identified needs maximizing and cooperation with the activities of EU Member States. Cooperation between the Commission and EU Member States is leading (Commission of the European Communities, 2007).

4.3. Sexual orientation

The anti-discrimination regulations about the problem of homosexual orientation exist in all EU member states, in general. Usually, we can find such regulations in the penal codes. In Portugal the regulation about this problem is even in the Constitution, in the opposite to the Latvia, where since the year 2005, the marriage with the same sex person is forbidden.

Moreover, in few West- European countries such marriages are legal: Netherlands, Belgium and Spain. Other forms of legal relationship, different than marriage, exist in law of: Denmark, Norway, Sweden, Island, France, Germany, Finland, Luxembourg, Great Britain, Andorra, Slovenia and Czech Republic.

Nevertheless, such relationship meet some limitations, for example in the Register Office, homosexual civil marriage has less celebrating character than the heterosexual marriage. The full right to adoption, the homosexual couples have in Netherlands, Great Britain, Sweden, and Spain. The right to adoption children of the partner, homosexuals have in Denmark, Island, Belgium, Finland, Germany and France (only by court decision) (Michałowska 2007: 210).

In the 1994 European Parliament adopted the resolution about the rights of the homosexual people in the European Union. Community claimed that states have to fight with unequal treatment of these persons in the administrative law, in regulations bound with the social security, allowances, family and adoption law, inheritance, housing and penal law.

Moving this problem into the international arena is linked with the gay and lesbians movements in the ‘70s. Twenty years later The World Health Organization deleted homosexual orientation from the diseases list.

From the all EU institutions the main role in improving the untypical sexual orientation people’s situation in Europe is Parliament. In the 1998 it adopted the resolution, which certified the protection of the homosexual’s human rights. This resolution was added to the recommendation of The Parliamentary Assembly of the Council of Europe in the case of transsexuals. It was bound with the ban of gender and sex reassignment. It was said that the progress in the medicine area enable to “harmonized the body” for transsexuals. The member states were called to adopt the regulations, which guarantee the right for sex reassignment therapy, hormone replacement, reconstruction and other surgeries with every possible medical and physical helps.

In the 2003 Parliament accepted the correction to the directive concerning the citizens of the EU and their family members to free movement and residence in the area of the
European Community. In this correction, the definition of the “family” includes the homosexual couple.

In the 2006 Parliament adopted the new resolution in the case of Homophobia in Europe. It has defined this apparition as irrational fear and aversion to gays, lesbians, bisexuals and transsexuals, which is based on preconceptions similar to racism, xenophobia, anti-Semitism and sexism. It was adopted to make sure that same-sex partners enjoy the respect, dignity and protection equally the rest of society (European Parliament, 2006).

In 2004 Parliament noticed that in the particular countries exists alarming phenomenon: ban of equality manifestations, hate statements claimed by politicians and religion leaders, nonfeasance of protection by police, interfering in demonstrating and forbidding same sex marriages. This resolution was criticized by catholic leaders. They claimed that it is sign of aversion to the religious values. They also said that the problems about the family life do not depend on the Community, but particular states jurisdiction (Michałowska 2007: 211-214).

4.4. Cases from the European Court of Human Rights

The European Court of Human Rights is the judicial authority of the Council of Europe. It was found in 1959. It was set up in accordance with the European Convention on Human Rights from 1950. It was considering the matters after diagnosis by European Commission on Human Rights. Since 1998 has constant character. It investigates complaints and issue rulings on matters of human rights violations by the Member States to the Convention and it has the seat in Strasbourg (New Common Encyclopedia, 1995).

It is not the Court of the European Community, but it judges the cases, which have origin and are applied from the Member States’ of the European Union citizens. The judgments from this Court may show the kinds of cases and citizens complaints considering the acts of discrimination applied to the Court by the European Union Citizens.

In the official Website of the European Court of Human Rights we can find the judgments of various cases bound with the problem of discrimination based on ethnic origin. Glancing on the judgments list we can say that most of them, if not all, are applied by the Rome origin people. I want to show few of these cases to show what kind of complaints are applied to the Court form the European Union Countries last years.

Firstly, I want to introduce the case citizens versus Bulgaria from 2007. The person of the Roma ethnicity was attacked by seven teenagers and beaten severely. He was taken to a hospital after the attack but died on the following morning. It happened in 1996. The applicants questioned that the authorities failed in carrying out a fast, effective and impartial investigation capable of conducting to the trial and conviction of the people responsible for the ill - treatment and death of their relative who was of Roma origin. They also questioned that the Bulgarian criminal legislation included no specific regulations, which incriminate the crimes of murder or serious body injury, or indeed any atrocity, as separate criminal crimes where the latter were racially reasoned. It did not include also explicit penalty - enhancing provisions which relate to racially reasoned crimes.

Furthermore, the applicants questioned that the authorities failed with discharging the duties to investigate and prosecute a racially motivated violent crime. Finally, the applicants questioned that the length of the criminal proceedings against the aggressors was exorbitant and it denied them access to a court to claim prejudices.

The judgment was following: The Court considered extremely unacceptable that, while knowing that the attack was racial hatred based, the authorities did not expeditiously end the preliminary investigation against the aggressors and bring them to trial. On the
opposite, authorities allowed the criminal proceedings procrastinating and remaining at the investigation period for more than eleven years.

Moreover, the Court observed that the authorities failed in charging the aggressors with any racially motivated crimes. It shows in this respect the widespread prejudices and violence against people of Roma origin during this period and the need of holding the reliance of minorities in the authorities’ ability of protecting them from the threat of racist hate and violence (European Court of Human Rights, 2007).

It can be the one of many examples of failure of authorities instead of help and protection. It concerns especially the police. Not fight with the discrimination is like to help the aggressors to discriminate and make crimes against minorities. Sometimes the actions of police are changing into the crime committed by police officers themselves.

Similar case was applied from Romanian citizen, where the applicant alleged that he was a subject of inhuman and degrading treatment in police custody. The question was that the authorities failed in satisfying their obligations to carry out a prompt, impartial and effective investigation into the allegations of ill -treatment. Moreover, he had no effective resort under domestic law for his charge of ill –treatment.

The Court judged that there was violation of citizen rights and mandated to the government satisfaction of the Applicant damages (European Court of Human Rights, 2007).

Such complaints are applied from many countries of the European Union. Nowadays, citizens of Rome origin still feel discrimination directed to them and bad treatment, which comes from the authorities. Another example comes from Greece when Woman of Rome origin alleged that she had been the subject of acts of police brutal treatment. What is more, the authorities had failed to carry out an adequate investigation into the incident. She was further convinced that the impugned events had been motivated by racial preconception.

The violations of Convention and citizen or we can say Human Rights were recognized by the Court. The State was duty bounded to satisfaction of the Applicant damages (European Court of Human Rights, 2008).

Another issue, which concerns the people of Rome origin, is their participation in education and their feeling of being discriminated on this field. I have example from the Czech Republic.

The Applicants questioned that they had been discriminated against in the enjoyment of their right to education, what was motivated with their race and ethnic origin. Despite of entrance requirements of the primary schools and as a result of the selection processes, until 1989 most of the Roma children attended special schools. The same happened to the Applicants.

Applicants claimed for satisfaction for the non-pecuniary damages, which they had, including “educational, psychological and emotional and compensation for the anxiety, frustration and humiliation”, which they suffered as a result of their discriminatory placement in special schools. They emphasized that the many effects of this violation were seriously affected all areas of their lives.

The Czech Republic was the only one of the eight countries who had provided data on the schooling of children whose difficulties arose from social agents and to use special schools. The other countries used ordinary schools for the education of such children. The Court recognized the violation of citizens’ rights and obligated the State to satisfaction the damages of Applicants (European Court of Human Rights, 2007).

Other complaints within the judgments show the problem in Cyprus. The Applicant applied to the Ministry of the Interior in Cyprus, requesting to be registered on the electoral roll in order to use his voting rights in the parliamentary election in 2001. The answer was that members of the Turkish-Cypriot community could not be registered on the Greek-Cypriot electoral roll. Applicant complained that the Cypriot government had failed in setting up two
electoral lists in order of protecting the electoral rights of members of both communities: Turkish and Cypriot.

The Applicant complained the article: The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. He complained that he was stymied from exercising his voting rights on the national origin and association with a national minority grounds.

The Court judged that there was violation of citizen rights and mandated to the government to change the applicable regulations in legislation (European Court of Human Rights, 2004).

Second issues consider the sexual orientation minorities. It is hard to find this type of case on the judgments list. It means that causes from those minorities are applied rarely. I want to show as an example case citizen versus Lithuania.

The applicant questioned violations of Articles of the European Convention on Human Rights: right to respect for his private and family life, no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of the protection of health or morals, or for the protection of the rights and freedoms of others, the enjoyment of the rights and freedoms set forth in Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Applicant questioned the lack of rule in legislation concerning transsexuals in Lithuania. Particularly, the applicant complained the absence of any lawful opportunity to undergo full gender-reassignment surgery. It in turn had resulted in other difficulties and drawbacks.

The Court judged that there was violation of the citizen rights and State have to fully redress the damages of the Applicant (European Court of Human Rights, 2007).

Similar case was directed to the Court from the English citizens.

4.5. Voice of Disabled

There is no case in the European Court of Human Rights, which is applied from disabled person and which is complaint about discrimination. It doesn’t mean that there is no discrimination on this field. May be they need some agency to help.

There is an independent European non-governmental organization, which stands for the rights of 50 million disabled people in the European Union and represents their interests. It is the European Disability Forum. Since it was found, it has played a main role to ensure that all European Union policies and initiatives are taking people with disabilities into account.

According to the European Disability Forum, disabled people should be able to access buildings and facilities in the same way as healthy people. The first and foremost a rights issue is the accessibility, even though there is no main obligation for public authorities or the private sector to see about accessibility requirements when building new or renovating existing infrastructure.

Secondly, in some EU Member States, disabled children and young disabled people can benefit from the mainstream education system. In other countries, the situation is very different and in some cases, disabled pupils are totally excluded from schools and universities.
Moreover the problem is that today, a large number of disabled people are forced to live in closed and inadequate institutions. They are subject of humiliating and degrading treatment and they are unable to exercise their fundamental right, which is the right of choosing about their own lives.

Furthermore, one of the aims of the disability mainstreaming is the full and active implication, at all levels, disabled people in policy planning and in decision-making process. They must have possibility to make decisions about their live, because there is no person in society who knows better their needs than themselves (The European Disability Forum).
5. Statistical analysis

In my research I am analyzing the Eurobarometer survey about discrimination and inequality in Europe, which shows the Public Opinion about these problems. It is based on the interviews and it describes six legally prohibited types of discrimination in the European Union.

Abbreviations in my table correspond to:

- EU 15 - 15 European Union’s Members before the enlargement in the 2004
- EU 12 - 12 European Union’s Members, which accessed the Community in the years 2004-2007

Graph 1: Perception of discrimination on the basis of ethnic origin, disability and sexual orientation in the all EU member states.

In the general overview we can see the perception of discrimination on the various grounds in the all 25 EU States. I want to focus on these, which are by more than 50% of the Public Opinion considered as a widespread mostly. Firstly, 64% citizens think that the discrimination on the ground of the ethnic origin is widespread and 30% that it is rare. Secondly, 53% citizens consider discrimination on the ground of disability as widespread, when 42% consider it as rare. Thirdly 50% citizens think that sexual orientation discrimination is widespread and 41% that it is rare.

We can see the difference between particular countries, which are hard to explain. Personal experiences and beliefs of respondents are the basis to form the opinion about the problem of discrimination. Also the word “widespread” is interpreted in the various ways, which depend on the people’s understanding of perceive norms.

In the next question people are interviewed about the positions of particular groups of society in the current time in 25 EU countries. 79% citizens consider that being disabled is a disadvantage in the society. Being a person of different ethnic origin than the rest of the
population is disadvantage for 62% of citizens. Being homosexual is thought as disadvantage for 54% of citizens. The survey shows that these features are recognize the most as a disadvantage.

In the case of disability almost all Europeans (91%) support the idea of spending more money to eliminate any physical or other difficulties for disabled people. In the example of people of different ethnic origin, 44% of respondents consider that this minority has more difficulties to get into a night clubs. Finally, 68% of asked citizens think that it is hard to state the sexual orientation for the homosexuals.
Table 1. Percentage of the widespread discrimination on the base of ethnic origin, disability and sexual orientation in the European Union.

<table>
<thead>
<tr>
<th>Country</th>
<th>Year of accession</th>
<th>Ethnic origin</th>
<th>Disability</th>
<th>Sexual orientation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>EU 15</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Belgium</td>
<td>1957</td>
<td>78%</td>
<td>53%</td>
<td>49%</td>
</tr>
<tr>
<td>France</td>
<td>1957</td>
<td>80%</td>
<td>66%</td>
<td>57%</td>
</tr>
<tr>
<td>The Netherlands</td>
<td>1957</td>
<td>83%</td>
<td>53%</td>
<td>50%</td>
</tr>
<tr>
<td>Luxembourg</td>
<td>1957</td>
<td>45%</td>
<td>36%</td>
<td>36%</td>
</tr>
<tr>
<td>Germany</td>
<td>1957</td>
<td>48%</td>
<td>37%</td>
<td>31%</td>
</tr>
<tr>
<td>Italy</td>
<td>1957</td>
<td>77%</td>
<td>68%</td>
<td>73%</td>
</tr>
<tr>
<td>Denmark</td>
<td>1973</td>
<td>79%</td>
<td>32%</td>
<td>27%</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>1973</td>
<td>68%</td>
<td>47%</td>
<td>48%</td>
</tr>
<tr>
<td>Ireland</td>
<td>1973</td>
<td>57%</td>
<td>35%</td>
<td>38%</td>
</tr>
<tr>
<td>Greece</td>
<td>1981</td>
<td>76%</td>
<td>56%</td>
<td>68%</td>
</tr>
<tr>
<td>Spain</td>
<td>1986</td>
<td>71%</td>
<td>54%</td>
<td>49%</td>
</tr>
<tr>
<td>Portugal</td>
<td>1986</td>
<td>61%</td>
<td>60%</td>
<td>67%</td>
</tr>
<tr>
<td>Austria</td>
<td>1995</td>
<td>56%</td>
<td>52%</td>
<td>43%</td>
</tr>
<tr>
<td>Finland</td>
<td>1995</td>
<td>70%</td>
<td>43%</td>
<td>49%</td>
</tr>
<tr>
<td>Sweden</td>
<td>1995</td>
<td>85%</td>
<td>53%</td>
<td>63%</td>
</tr>
<tr>
<td><strong>EU12</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cyprus</td>
<td>2004</td>
<td>71%</td>
<td>47%</td>
<td>72%</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>2004</td>
<td>51%</td>
<td>50%</td>
<td>30%</td>
</tr>
<tr>
<td>Estonia</td>
<td>2004</td>
<td>37%</td>
<td>59%</td>
<td>26%</td>
</tr>
<tr>
<td>Lithuania</td>
<td>2004</td>
<td>23%</td>
<td>53%</td>
<td>42%</td>
</tr>
<tr>
<td>Latvia</td>
<td>2004</td>
<td>29%</td>
<td>51%</td>
<td>32%</td>
</tr>
<tr>
<td>Malta</td>
<td>2004</td>
<td>69%</td>
<td>34%</td>
<td>56%</td>
</tr>
<tr>
<td>Poland</td>
<td>2004</td>
<td>33%</td>
<td>53%</td>
<td>59%</td>
</tr>
<tr>
<td>Slovakia</td>
<td>2004</td>
<td>49%</td>
<td>43%</td>
<td>33%</td>
</tr>
<tr>
<td>Slovenia</td>
<td>2004</td>
<td>55%</td>
<td>43%</td>
<td>61%</td>
</tr>
<tr>
<td>Hungary</td>
<td>2004</td>
<td>66%</td>
<td>58%</td>
<td>36%</td>
</tr>
<tr>
<td>Rumunia</td>
<td>2007</td>
<td>39%</td>
<td>48%</td>
<td>47%</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>2007</td>
<td>42%</td>
<td>45%</td>
<td>25%</td>
</tr>
<tr>
<td><strong>∑</strong></td>
<td></td>
<td><strong>59%</strong></td>
<td><strong>49%</strong></td>
<td><strong>47%</strong></td>
</tr>
</tbody>
</table>

This table is statement of the all percentage records in the all 25 European Union countries. It shows the public opinion about prevalence of the ethnic origin, disability and sexual orientation discrimination. The countries are divided into the two groups: EU 15 and EU 12.

The interview question:
“For each of the following types of discrimination, could you please tell me whether, in your opinion, it is very widespread, fairly widespread, fairly rare or rare in (OUR COUNTRY)? Discrimination on the basis of ethnic origin.” (The data in table are showing the answer: widespread). The same questions were asked for disability and sexual orientation.

5.1. The problem of discrimination in the EU 15- The Old European Union Members, which joined the Community till the year 2004

Table 2. Percentage of the discrimination on the base of ethnic origin, disability and sexual orientation in the EU 15.

<table>
<thead>
<tr>
<th>EU 15</th>
<th>Year of accession</th>
<th>Ethnic origin</th>
<th>Disability</th>
<th>Sexual orientation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Belgium</td>
<td>1957</td>
<td>78%</td>
<td>53%</td>
<td>49%</td>
</tr>
<tr>
<td>France</td>
<td>1957</td>
<td>80%</td>
<td>66%</td>
<td>57%</td>
</tr>
<tr>
<td>The Netherlands</td>
<td>1957</td>
<td>83%</td>
<td>53%</td>
<td>50%</td>
</tr>
<tr>
<td>Luxembourg</td>
<td>1957</td>
<td>45%</td>
<td>36%</td>
<td>36%</td>
</tr>
<tr>
<td>Germany</td>
<td>1957</td>
<td>48%</td>
<td>37%</td>
<td>31%</td>
</tr>
<tr>
<td>Italy</td>
<td>1957</td>
<td>77%</td>
<td>68%</td>
<td>73%</td>
</tr>
<tr>
<td>Denmark</td>
<td>1973</td>
<td>79%</td>
<td>32%</td>
<td>27%</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>1973</td>
<td>68%</td>
<td>47%</td>
<td>48%</td>
</tr>
<tr>
<td>Ireland</td>
<td>1973</td>
<td>57%</td>
<td>35%</td>
<td>38%</td>
</tr>
<tr>
<td>Greece</td>
<td>1981</td>
<td>76%</td>
<td>56%</td>
<td>68%</td>
</tr>
<tr>
<td>Spain</td>
<td>1986</td>
<td>71%</td>
<td>54%</td>
<td>49%</td>
</tr>
<tr>
<td>Portugal</td>
<td>1986</td>
<td>61%</td>
<td>60%</td>
<td>67%</td>
</tr>
<tr>
<td>Austria</td>
<td>1995</td>
<td>56%</td>
<td>52%</td>
<td>43%</td>
</tr>
<tr>
<td>Finland</td>
<td>1995</td>
<td>70%</td>
<td>43%</td>
<td>49%</td>
</tr>
<tr>
<td>Sweden</td>
<td>1995</td>
<td>85%</td>
<td>53%</td>
<td>63%</td>
</tr>
<tr>
<td>∑</td>
<td></td>
<td>69%</td>
<td>50%</td>
<td>50%</td>
</tr>
</tbody>
</table>


This table shows only countries from the group EU15, which are considered in my analysis as the old member states. Countries are arranged in the time sequence of accession to the EU.
5.2. The problem of discrimination in EU 12 - The New European Union Members, which joined the Community till the year 2004

Table 3. Percentage of the discrimination on the base of ethnic origin, disability and sexual orientation in the EU 12.

<table>
<thead>
<tr>
<th>EU12</th>
<th>Year of accession</th>
<th>Ethnic origin</th>
<th>Disability</th>
<th>Sexual orientation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cyprus</td>
<td>2004</td>
<td>71%</td>
<td>47%</td>
<td>72%</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>2004</td>
<td>51%</td>
<td>50%</td>
<td>30%</td>
</tr>
<tr>
<td>Estonia</td>
<td>2004</td>
<td>37%</td>
<td>59%</td>
<td>26%</td>
</tr>
<tr>
<td>Lithuania</td>
<td>2004</td>
<td>23%</td>
<td>53%</td>
<td>42%</td>
</tr>
<tr>
<td>Latvia</td>
<td>2004</td>
<td>29%</td>
<td>51%</td>
<td>32%</td>
</tr>
<tr>
<td>Malta</td>
<td>2004</td>
<td>69%</td>
<td>34%</td>
<td>56%</td>
</tr>
<tr>
<td>Poland</td>
<td>2004</td>
<td>33%</td>
<td>53%</td>
<td>59%</td>
</tr>
<tr>
<td>Slovakia</td>
<td>2004</td>
<td>49%</td>
<td>43%</td>
<td>33%</td>
</tr>
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<td>Slovenia</td>
<td>2004</td>
<td>55%</td>
<td>43%</td>
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<td>Hungary</td>
<td>2004</td>
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<td>Rumunia</td>
<td>2007</td>
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<td>48%</td>
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<tr>
<td>Bulgaria</td>
<td>2007</td>
<td>42%</td>
<td>45%</td>
<td>25%</td>
</tr>
<tr>
<td><strong>∑</strong></td>
<td></td>
<td><strong>47%</strong></td>
<td><strong>49%</strong></td>
<td><strong>43%</strong></td>
</tr>
</tbody>
</table>


This table shows only countries from the group EU 12, which are considered in my analysis as the new member states. Countries are arranged in the time sequence of accession to the EU.
5.3. Hypothesis: The old member states are more successful in the area of non-discrimination than the new members of the European Union.

Table 4. Arithmetic mean of discrimination in both: EU 15 and EU 12.

<table>
<thead>
<tr>
<th></th>
<th>Ethnic Origin</th>
<th>Disability</th>
<th>Sexual Orientation</th>
</tr>
</thead>
<tbody>
<tr>
<td>EU 15</td>
<td>69</td>
<td>50</td>
<td>50</td>
</tr>
<tr>
<td>EU 12</td>
<td>47</td>
<td>49</td>
<td>43</td>
</tr>
</tbody>
</table>


This table shows the arithmetic mean in percentage of each of the widespread discrimination types. According to the answers of the respondents, in the all EU 15 discrimination on the ground of ethnic origin is widespread for 69% of all citizens. Disability and sexual orientation discriminations are widespread in the opinion of 50% of the EU citizens. In the EU 12, discrimination on the ground of ethnic origin is widespread for 47% citizens. Disability discrimination is widespread for 49% of respondents. 43% of all citizens answered that sexual orientation discrimination is widespread.

Graph 2: Perception of discrimination on the basis of ethnic origin, disability and sexual orientation in the EU 15 and EU 12 member states.


This data shows the opinion and the experience of the citizens bound with the discrimination in Europe. When we divide our general focus on the particular groups (which are the old and new member states) we can see the differences between these groups.

In the all of the most widespread types of discrimination the EU 15 has bigger percentage of discrimination than the EU 12. It means that the old member states citizens
have bigger perception of the discrimination phenomenon than these living in the new member states.

On the question: why the result looks like this, there may be a lot of answers, which are proper. It can be the topic of another thesis, especially in the psychological and social research. May be new member states are more successful or may be their citizen’s awareness is not enough. They can be not very well informed by governmental and EU campaigns about the problem. The reason can be the short time of membership in the Community. New countries of the EU are usually less developed than old members, also in the social dimension. The countries have no money or measures supporting various social campaigns and activity. The absence of European Union’s campaigns causes that people’s knowledge about the issues of discrimination, and even its existence as a very serious social problem, is insufficient. When nobody is talking about a problem, a lot of citizens think that it does not exist.
6. The Conclusion

The treaties, directives and other texts of the European Union have been mentioned and analyzed. After the analysis of the regulations considering particular grounds of the discrimination, we can say that there has been a great development in the area of anti-discrimination activity of the European Union. Also we can say now that there is the evaluation of the legislation including the protection of the minorities. We can say that European Union is successful on the legislation reforms and anti-discrimination activity.

The interviews of the Public opinion showed that people in the New Member States percept less discrimination than citizens of Old Member States. According to them, the Old Member States has bigger problems than New Ones. In the other hand it can mean that the longer the information campaigns and actions works the better citizens are informed about the problem.

In the case of disabled people, there was a special directive including the protection of their rights, there exist some action plans considering their problems, but they are still omitting in the decision making processes considering the decisions about their rights and protection.

In the case of Roma, the European Union has publicized the Roma's terribly living conditions, criticized state policy and also decided to refuse membership to states which will not improve their records on minorities. But as we can see in the cases from the European Court of Human Rights, there are serious problems connected especially with the bad treatment by authorities. Also the isolation the Rome children in the education is a very visible problem.

The sexual minorities are not enough considered in the legislation. They are subsumed to other minorities in some general regulations prohibiting the discrimination. There is no act of law which protects them in the much specified way. Their voice in the society is often omitted because it is very problematic topic, especially in the facing with the religious values of European Nations, especially in New Member States.

The New directive Proposal is a very good idea in nowadays situation of minorities in the European Union. But it will be still not enough to reduce main problems of above discriminated groups. There have to be some change outside the law. The social change is very important to help minorities to fully enjoy their rights to be treated equally with the majority.

There were discussions about non-discrimination as a fundamental right came from the treaties and Member States traditions. We have to see progress, which in historical dimension is the evaluation of the EU from economic union to governance involved in Human Rights issue. We can be sure, that European Union, in its anti-discrimination activity, will make new actions and regulations in the spirit of diversity and respect.
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(Application no. 69949/01)
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