

INTERSECTIONALITY AND GENDER: THE CASE OF NORTH MACEDONIA

Zaneta POPOSKA

Associate Professor, Faculty of Law, State University Goce Delchev

e-mail: zaneta.poposka@ugd.edu.mk

Abstract

The increasing complexity of contemporary discrimination demonstrates the limitations of traditional single-ground approaches to equality law in addressing the lived experiences of individuals exposed to multiple and mutually reinforcing forms of disadvantage. This paper examines intersectionality not only as a theoretical framework for understanding multiple discrimination, but also as a potential governance approach for transforming equality legislation, institutional practice, and access to justice. Using North Macedonia as a case study, the research adopts a doctrinal and comparative legal methodology, examining relevant developments in international human rights law, European Union equality law, and the national anti-discrimination framework, with particular emphasis on the role and practice of the Commission for Prevention and Protection against Discrimination (CPPD) as the national equality body. The findings indicate that, despite significant developments in equality legislation over the past two decades, legal and institutional responses to discrimination remain predominantly structured around individual protected characteristics, limiting their capacity to address intersecting and structural forms of disadvantage. The analysis further suggests that a more systematic integration of intersectionality into the interpretation and implementation of equality law could strengthen institutional responses and improve access to justice for individuals experiencing multiple discrimination. The paper concludes that embedding intersectional approaches within legislation, institutional decision-making, and the work of the CPPD is essential for moving beyond fragmented protection towards a more comprehensive and effective framework for substantive equality in North Macedonia.

Keywords: *intersectionality; structural discrimination; substantive equality; equality bodies; North Macedonia*

INTRODUCTION

The pursuit of equality has progressively evolved from a narrow prohibition of differential treatment towards a broader commitment to addressing the structural conditions that generate and perpetuate disadvantage. While the principle of non-discrimination remains a cornerstone of international human rights law, contemporary equality frameworks increasingly recognise that formally equal treatment may be insufficient where social, economic, institutional and historical factors continue to produce unequal outcomes. This shift from formal to substantive and now to inclusive equality requires a deeper examination of the systemic barriers affecting individuals and groups whose experiences of discrimination are shaped by multiple and intersecting grounds of disadvantage.

The concept of intersectionality has emerged as a central framework for understanding this transformation of equality law and policy. Originally developed within critical race and feminist scholarship, intersectionality highlights that discrimination cannot always be understood through isolated categories such as sex, race, disability, age, ethnicity or socio-economic status. Rather, individuals may experience compounded and mutually reinforcing forms of disadvantage arising from the interaction of multiple identities and social positions. Kimberlé Crenshaw's foundational analysis demonstrated that conventional anti-discrimination approaches frequently fail to capture the experiences of individuals situated at the intersection of multiple forms of inequality, particularly where legal systems examine discrimination through single-axis frameworks. Subsequent scholarship has expanded this understanding by emphasising intersectionality as both an analytical tool and a framework for institutional transformation capable of revealing structural patterns of exclusion.

International human rights law has gradually incorporated elements of this broader understanding of equality. Although many international instruments were initially drafted around individual grounds of discrimination, contemporary interpretations by treaty bodies have increasingly acknowledged multiple and intersecting discrimination. The Committee on the Elimination of Discrimination against Women (CEDAW), the Committee on the Rights of Persons with Disabilities (CRPD), and the Committee on the Elimination of Racial Discrimination (CERD) have consistently recognised that discrimination may arise through the interaction of different grounds and requires responses addressing underlying structural inequalities. In particular, *CEDAW General Recommendations Nos. 25 and 28* emphasise that States must consider intersecting forms of discrimination affecting women, while the CRPD Committee has identified intersectionality as a key element in understanding barriers faced by persons with disabilities, particularly women, children and persons belonging to minority communities.

At the European level, the principle of equality has similarly developed beyond the prohibition of explicit unequal treatment. The jurisprudence of the European Court of Human Rights has progressively acknowledged that

discrimination may result from structural conditions and that States may have positive obligations to address persistent inequalities affecting vulnerable groups. Although the *European Convention on Human Rights and Fundamental Freedoms* does not expressly contain an intersectionality clause, the Court’s evolving approach under Article 14, together with Protocol No. 12, has increasingly allowed consideration of contextual disadvantage and the particular vulnerability of certain groups. Cases such as *D.H. and Others v. the Czech Republic*, *Oršuš and Others v. Croatia*, *B.S. v. Spain*, and *J.D. and Others v. the United Kingdom* demonstrate the Court’s recognition that apparently neutral practices may disproportionately affect particular groups and that effective equality requires attention to social realities rather than purely formal classifications.

Within European Union law, the commitment to equality has been reinforced through the *Charter of Fundamental Rights of the European Union* and a comprehensive body of equality directives prohibiting discrimination on grounds including sex, racial or ethnic origin, religion or belief, disability, age and sexual orientation. Nevertheless, EU equality law has traditionally developed through a ground-specific approach, which has created challenges in addressing situations involving multiple and intersecting forms of discrimination. The adoption of the *EU Directives 2024/1499 and 2024/1500 on standards for equality bodies* represents a significant development by strengthening institutional capacities to address complex discrimination patterns, enhance access to justice, improve data collection and promote effective equality mainstreaming.

In this context, equality bodies occupy a critical position in translating substantive equality principles into effective institutional practice. Their role has expanded beyond individual complaint handling towards broader functions of prevention, monitoring, research, strategic litigation, policy advice and public awareness. As emphasised by scholars examining equality institutions, including Sandra Fredman, Mark Bell, Colm O’Cinneide, Dagmar Schiek and others, achieving equality requires not only remedies for individual instances of discrimination but also institutional mechanisms capable of identifying and transforming structural inequalities embedded within social systems and public administration.

North Macedonia provides an important case study for analysing these developments. Although the country has established legal and institutional frameworks for combating discrimination, including the Commission for Prevention and Protection from Discrimination (CPPD) and the Ombudsperson Institution, challenges remain regarding effective implementation, institutional independence, accessibility of remedies and the capacity to address structural and intersectional discrimination. The approximation process with European Union standards, particularly following the adoption of the 2024 equality body directives, creates an opportunity to strengthen national equality mechanisms and align them with international standards, including the UN Paris Principles and the evolving European equality acquis.

METHODOLOGY

This paper argues that addressing structural discrimination requires moving beyond an individualised understanding of equality towards an intersectional and transformative approach in which equality bodies function as key governance institutions. Accordingly, the paper's main research question is how an intersectional and transformative approach can strengthen the legal and institutional response to structural discrimination in North Macedonia, particularly through the role of equality bodies. To address this question, the study pursues three objectives: to examine the development of intersectionality and substantive equality within international human rights law and EU equality law; to assess the extent to which these principles are reflected and implemented within North Macedonia's anti-discrimination framework and the practice of the CPPD; and to identify how equality bodies can move beyond reactive complaint-handling towards preventive, evidence-based and transformative equality governance. The paper adopts a qualitative legal methodology combining doctrinal analysis of international and European legal standards, examination of relevant jurisprudence, and institutional analysis of equality mechanisms, with particular attention to the institutional context of North Macedonia. It proposes that substantive equality should be operationalised through institutional frameworks capable of identifying overlapping disadvantages, generating evidence-based responses and ensuring meaningful participation of affected communities. The paper's original contribution to existing scholarship lies in connecting intersectionality theory with the practical governance role of equality bodies, thereby moving beyond the treatment of intersectionality as solely an analytical framework and proposing an integrated approach that links legal protection, institutional accountability and structural reform. This approach seeks to demonstrate how equality bodies can contribute to transforming formal legal commitments into effective protection for vulnerable groups.

Methodological approach to case selection and analysis

The jurisprudential component of the study is based on a purposive selection of judicial decisions rather than an exhaustive review of all discrimination cases. Judicial decisions were selected according to their direct relevance to the paper's central concepts of substantive equality, intersectionality, structural discrimination and positive state obligations. Particular attention was given to decisions in which courts examined discrimination affecting vulnerable or marginalised groups, cases involving apparently neutral measures producing disproportionate effects, and decisions demonstrating a shift from formal or single-ground equality towards a contextual assessment of disadvantage. The selected European Court of Human Rights cases, such as *D.H. and Others v. the Czech Republic*, *Oršuš and Others v. Croatia*, *B.S. v. Spain*, *J.D. and Others v. the United Kingdom*, and *Elmazova and*

Others v. North Macedonia, were therefore used as illustrative jurisprudential authorities because they demonstrate the relevance of social context, vulnerability, structural disadvantage and overlapping forms of exclusion to equality analysis. The selection also enables the paper to identify the extent to which European jurisprudence has moved beyond an exclusively formal conception of discrimination while recognising the continuing absence of a fully developed doctrine of intersectional discrimination.

The CPPD cases were selected purposively according to their capacity to demonstrate the practical application, or limitations, of an intersectional approach within the North Macedonian equality framework. The analysis focuses particularly on cases concerning Roma women's access to healthcare, women farmers' access to pregnancy, childbirth and maternity-related social protection, Roma children and educational segregation, and children with disabilities. These cases were selected because they involve situations in which disadvantage cannot adequately be explained through a single protected characteristic and therefore provide a useful basis for examining whether the CPPD identifies the interaction between gender, ethnicity, disability, socioeconomic status, age and institutional practices. Each case was analysed comparatively against a common set of criteria: (i) the protected characteristics engaged; (ii) whether the decision identified interactions between those characteristics rather than merely listing multiple grounds; (iii) whether the discriminatory outcome was linked to broader institutional or structural conditions; (iv) the evidentiary and causal reasoning employed; and (v) the nature and effectiveness of the remedy or recommendation. This approach is important because, as the paper itself recognises, simply identifying multiple grounds does not constitute an intersectional analysis; the analysis must demonstrate how different forms of disadvantage interact and contribute to the discriminatory outcome.

Justification for choosing North Macedonia as a representative case study

North Macedonia is selected as a representative and analytically significant case study because it combines several features that make it particularly suitable for examining the transition from formal anti-discrimination protection towards intersectional and transformative equality governance. It has a relatively developed legal framework, including the explicit recognition of multiple and intersectional discrimination under the Law on Prevention and Protection against Discrimination, alongside an institutional equality mechanism in the CPPD. At the same time, the country illustrates the implementation gap that the paper seeks to investigate: despite formal recognition of intersectionality, the equality framework remains substantially complaint-driven and faces challenges in identifying structural patterns, collecting evidence, analysing cumulative disadvantage and designing effective remedies. North Macedonia is therefore not presented as statistically representative of all European states, but as an analytically representative case of a European/EU-candidate jurisdiction situated at the intersection of international human-rights

standards, evolving EU equality requirements and domestic institutional reform. Its ongoing alignment with the EU directives further makes it a particularly useful case for assessing how international and European standards can be translated into domestic institutional practice.

1. EVOLUTION OF INTERSECTIONALITY WITHIN CONTEMPORARY LEGAL SCHOLARSHIP

As analysed by Poposka and Chalovska-Dimovska, the understanding of equality has undergone a profound transformation over the past century. Initially conceived as a formal legal principle requiring identical treatment of similarly situated individuals, equality has progressively evolved into a multidimensional concept centred on substantive justice, structural transformation and effective inclusion. This evolution reflects the growing recognition that discrimination rarely results from isolated acts of unequal treatment. Rather, it is embedded within historical, political, economic and social structures that systematically privilege certain groups while disadvantaging others. Against this background, intersectionality has emerged as one of the most influential theoretical and methodological frameworks for explaining how multiple forms of discrimination interact, overlap and reinforce one another. It has fundamentally reshaped contemporary equality scholarship by shifting attention from single-axis analyses of discrimination towards the complex realities experienced by individuals occupying multiple disadvantaged social positions (Poposka and Chalovska-Dimovska, 2023).

1.1. From Formal Equality to Substantive Equality

Classical conceptions of equality were largely grounded in Aristotle's formulation that "same/similar should be treated alike and unlikes differently according to their relevant differences" (Aristotle, *Nicomachean Ethics*, Book V). This principle subsequently became embedded in constitutional traditions and international human rights law through guarantees of equality before the law and prohibitions of arbitrary discrimination, including Articles 1 and 7 of the *Universal Declaration of Human Rights*, Articles 2 and 26 of the *International Covenant on Civil and Political Rights*, Article 2(2) of the *International Covenant on Economic, Social and Cultural Rights*, Article 14 of the *European Convention on Human Rights* (ECHR) and Article 21 of the *Charter of Fundamental Rights of the European Union* (CFREU). Although formal equality remains an indispensable component of the rule of law, its limitations have become increasingly apparent. Equal treatment of persons situated within profoundly unequal social, economic and institutional contexts often perpetuates rather than eliminates disadvantage. Contemporary equality theory has therefore shifted from a purely procedural understanding of equality towards a substantive conception that requires addressing the structural conditions producing exclusion.

Among the leading proponents of this approach, Sandra Fredman argues that substantive equality extends beyond the prohibition of differential treatment and requires active transformation of the conditions generating inequality. She identifies four interrelated dimensions of substantive equality: the redistributive dimension, aimed at addressing socio-economic disadvantage; the recognition dimension, combating stigma, stereotyping and prejudice; the participative dimension, ensuring meaningful inclusion in political and social life; and the transformative dimension, requiring institutional reform to dismantle structural barriers (Fredman, 2011). This four-dimensional framework has become one of the most influential theoretical models informing contemporary equality jurisprudence and public policy.

The transition from formal to substantive equality has significantly influenced international human rights law. The UN Committee on the Rights of Persons with Disabilities, in *General Comment No. 6 (2018) on equality and non-discrimination*, introduced the concept of "inclusive equality", encompassing redistributive, recognitive, participatory and accommodating dimensions that closely mirror Fredman's framework. Similarly, the Committee on the Elimination of Discrimination against Women (CEDAW Committee) has consistently interpreted substantive equality as requiring States Parties to eliminate structural discrimination through temporary special measures, institutional reforms and proactive public policies rather than relying solely on formal legal guarantees. Consequently, equality is no longer understood merely as identical legal treatment but as imposing positive obligations on states to identify, prevent and remove structural barriers that impede equal participation in society. This preventive and transformative understanding increasingly characterises both international human rights law and European equality legislation.

1.2. Emergence of Intersectionality and the Black Feminist Scholarship

The modern concept of intersectionality is generally associated with Kimberlé Crenshaw, whose seminal articles *Demarginalizing the Intersection of Race and Sex* (1989) and *Mapping the Margins* (1991) fundamentally reshaped legal understandings of discrimination. Crenshaw demonstrated that anti-discrimination law traditionally approached race and gender as mutually exclusive categories, thereby rendering invisible the experiences of Black women whose discrimination arose precisely from the interaction of both identities. Her analysis of *DeGraffenreid v. General Motors* (413 F. Supp. 142 (E.D. Mo. 1976)) illustrated how courts applying a single-axis framework failed to recognise discrimination experienced simultaneously on the grounds of race and sex. Judicial reasoning assessed racial discrimination primarily through the experiences of Black men and gender discrimination through those of White women, leaving Black women outside the scope of legal protection. Crenshaw described this phenomenon as the "intersection" at which multiple forms of disadvantage converge but remain legally unrecognised. Crenshaw subsequently distinguished three complementary dimensions of intersectionality. Structural intersectionality examines the interaction of social and

institutional structures producing compounded disadvantage; political intersectionality explores how legal and policy responses addressing one form of discrimination may inadvertently marginalise individuals affected by multiple inequalities; and representational intersectionality analyses how cultural narratives, stereotypes and dominant social discourses reinforce exclusion (Crenshaw, 1989; Crenshaw, 1991). Collectively, these dimensions demonstrate that discrimination cannot always be understood as the simple addition of separate protected characteristics. Rather, intersecting identities create qualitatively distinct forms of disadvantage requiring independent legal recognition.

Although Crenshaw introduced the terminology, the intellectual foundations of intersectionality lie within Black feminist scholarship. Long before the concept acquired legal prominence, scholars such as Angela Davis, bell hooks, Audre Lorde and Patricia Hill Collins criticised mainstream feminist theory for universalising the experiences of White middle-class women while overlooking the interconnected effects of race, class, gender and other systems of oppression. Among these scholars, Patricia Hill Collins has made one of the most enduring theoretical contributions through her concept of the *Matrix of Domination*. Collins argues that racism, patriarchy, capitalism, colonialism and heteronormativity operate as mutually reinforcing systems of power rather than isolated structures of inequality (Collins, 2000). She further distinguishes structural, disciplinary, hegemonic and interpersonal domains through which power is reproduced, demonstrating that inequality is maintained not only through legal rules but also through institutional cultures, administrative practices, dominant ideologies and everyday social interactions. This broader sociological perspective considerably enriches legal analyses of discrimination by shifting attention from individual perpetrators towards institutional systems and structural inequalities.

1.3. Contemporary Developments in Intersectionality Theory

Since Crenshaw's original work, intersectionality has evolved into a sophisticated interdisciplinary research paradigm. Leslie McCall (2005) identifies three principal methodological approaches. *First*, the anticategorical approach critiques fixed identity categories altogether, arguing that categories themselves reproduce systems of domination. *Second*, the intercategorical approach strategically employs existing categories to measure inequality between social groups. And *third*, the intracategorical approach, perhaps most relevant to equality law, examines diversity within traditionally marginalised groups to illuminate experiences overlooked by conventional legal analysis.

Cho, Crenshaw and McCall further conceptualise intersectionality as involving three complementary forms of intervention: i) analytical interventions examining intersecting systems of inequality; ii) methodological interventions reshaping research design; and iii) political interventions informing transformative social change (Cho, Crenshaw, McCall, 2013).

These developments illustrate that intersectionality is no longer merely descriptive. It increasingly functions as an applied framework capable of guiding institutional reform, legislative development and public policy evaluation.

1.4. Intersectionality within European Equality Scholarship

European scholarship has adapted intersectionality to the institutional architecture of the European Union and the Council of Europe, where equality protection has traditionally developed through separate legal regimes addressing individual discrimination grounds. Dagmar Schiek argues that this compartmentalised model has produced fragmented legal protection incapable of adequately addressing multiple and intersecting discrimination. She therefore advocates an integrated approach that recognises interactions among protected characteristics and promotes coherent equality governance across legal systems (Schiek, 2011).

Similarly, Nira Yuval-Davis conceptualises intersectionality as a dynamic process rather than a fixed identity model. Individuals simultaneously occupy multiple social locations shaped by intersecting political, economic and cultural structures. Consequently, public policies should analyse not only individual identities but also the institutional mechanisms generating differential access to resources and opportunities (Yuval-Davis, 2006, p. 193-209).

Mieke Verloo extends this discussion by examining gender mainstreaming and diversity governance within European institutions. She argues that policy-making frequently prioritises single inequalities while overlooking interactions between gender, ethnicity, disability, migration status and class. Effective governance therefore requires institutional mechanisms capable of integrating multiple equality objectives simultaneously (Verloo, 2006). These European perspectives increasingly influence EU legislative developments, particularly through strengthened obligations placed upon equality bodies to promote substantive equality rather than merely investigate complaints.

An equally significant development concerns the distinction between individual and structural discrimination. Traditional anti-discrimination law generally conceptualises discrimination as an isolated act committed by an identifiable perpetrator against a particular victim. Although effective in addressing direct discrimination, this model inadequately captures institutional practices that systematically generate disadvantage without explicit discriminatory intent. Structural discrimination instead arises through the cumulative interaction of legislation, administrative practices, organisational cultures, resource allocation, historical inequalities and social norms.

Fredman argues that structural discrimination frequently persists despite formally neutral legal frameworks because institutions continue reproducing historical inequalities embedded within organisational decision-making (Fredman, 2011). Similarly, Sandra Fredman and Bob Hepple have emphasised that achieving

substantive equality requires transforming institutional arrangements rather than merely compensating individual victims (Fredman and Hepple, 2000).

International and regional human rights bodies increasingly recognise structural discrimination within their jurisprudence. The CEDAW Committee consistently interprets discrimination against women as rooted in structural gender inequalities, while the CRPD Committee conceptualises disability discrimination as arising from socially constructed barriers rather than individual impairments. The European Court of Human Rights has similarly acknowledged structural discrimination in cases concerning Roma communities, including *D.H. and Others v. Czech Republic* (GC, 2007), *Horváth and Kiss v. Hungary* (2013) and *Elmazova and Others v. North Macedonia* (2022). Collectively, these judgments reflect an emerging judicial willingness to examine systemic patterns of exclusion rather than isolated incidents of discriminatory treatment.

1.5. Equality Bodies as Institutional Agents of Transformation

Recent scholarship increasingly conceptualises equality bodies not merely as complaint-handling institutions but as strategic governance actors capable of promoting structural change. Reif, Bell, O'Cinneide, Chopin and Uyen Do argue that effective equality bodies perform multiple interconnected functions extending well beyond dispute resolution, including strategic litigation, legislative scrutiny, equality mainstreaming, policy advice, public education, data collection and institutional accountability (Reif, 2004; Bell, 2002; O'Cinneide, 2003; Chopin & Uyen Do, 2014).

This evolving understanding has now been codified in European Union law through *Directives (EU) 2024/1499* and *(EU) 2024/1500*, which establish, for the first time, common minimum standards governing the independence, mandate, resources, investigative powers, accessibility, data collection responsibilities and promotional functions of national equality bodies. Importantly, the Directives move beyond a reactive model of complaint resolution by emphasising prevention, monitoring, equality mainstreaming and systemic promotion of substantive equality.

Consequently, equality bodies are increasingly positioned as institutional catalysts for structural transformation. Through strategic investigations, equality impact assessments, legislative monitoring, institutional audits, evidence-based policy recommendations and enhanced cooperation with civil society, they possess significant potential to operationalise intersectionality within public administration. Their evolving mandate reflects the broader transition from reactive enforcement mechanisms towards proactive and transformative equality governance, thereby reinforcing the transition from formal equality to substantive and structural justice that characterises contemporary anti-discrimination law.

2. SUBSTANTIVE EQUALITY AND INTERSECTIONALITY IN INTERNATIONAL LAW

The evolution of international human rights law reflects a gradual transformation of equality from a principle centred on formal equal treatment towards a broader obligation to achieve substantive and inclusive equality. While early human rights instruments primarily articulated equality through general non-discrimination clauses, contemporary international law increasingly recognises that formal legal equality is insufficient where individuals and groups experience historically embedded, structural and intersectional forms of disadvantage.

The emergence of intersectionality within international law challenges the assumption that discrimination can be understood solely through isolated protected characteristics. Instead, international human rights mechanisms increasingly acknowledge that individuals may experience discrimination through the interaction of multiple identities and social positions, requiring legal and institutional responses capable of addressing complex patterns of exclusion. This development has been particularly evident within the United Nations human rights system and, increasingly, within European Union equality law. Both frameworks have contributed to a reconceptualisation of equality as a proactive obligation requiring states not only to prohibit discriminatory treatment but also to address the structural conditions that reproduce inequality.

2.1. UN standards

The United Nations human rights system has played a foundational role in developing contemporary understandings of substantive equality and intersectionality. Equality is embedded within the core instruments of international human rights law, including the *Universal Declaration of Human Rights* (UDHR), the *International Covenant on Civil and Political Rights* (ICCPR) and the *International Covenant on Economic, Social and Cultural Rights* (ICESCR).

Article 1 of the UDHR affirms that “all human beings are born free and equal in dignity and rights”, while Article 2 guarantees the enjoyment of rights and freedoms without distinction based on protected characteristics. Similarly, Article 26 of the ICCPR establishes equality before and equal protection of the law without discrimination, while Article 2(2) of the ICESCR requires states to guarantee economic, social and cultural rights without discrimination. Although these provisions initially focused on preventing explicit unequal treatment, UN treaty bodies have progressively expanded the interpretation of equality to encompass structural disadvantage, historical inequalities and barriers preventing meaningful participation in society.

The Human Rights Committee, in *General Comment No. 18 on non-discrimination*, clarified that equality requires more than identical treatment and may necessitate positive measures addressing situations of disadvantage. The Committee recognised that differential treatment may be required where objective and

reasonable distinctions exist, acknowledging that treating unequal situations identically may perpetuate existing inequalities. This understanding reflects the transition towards substantive equality, whereby states may have positive obligations to remove conditions preventing certain groups from enjoying rights on an equal basis. Measures designed to address disadvantage are therefore not exceptions to equality but essential instruments for its realisation.

The Convention on the Elimination of All Forms of Discrimination against Women has made a particularly significant contribution to the development of intersectional approaches to discrimination. Although adopted in 1979, the Convention has increasingly been interpreted through an intersectional perspective, recognising that women do not constitute a homogenous group. The CEDAW Committee has consistently emphasised that discrimination against women is often connected with other factors, including race, ethnicity, religion, disability, age, socioeconomic status, migration status, sexual orientation and gender identity. *General Recommendation No. 28 concerning the core obligations of States parties under Article 2 of CEDAW* explicitly acknowledges that discrimination against women is “inextricably linked” with other factors affecting their lives. The Committee requires states to recognise and prohibit intersecting forms of discrimination and to address their compounded impact on women. This represents a significant departure from approaches analysing gender inequality solely through the category of sex or gender, requiring instead an assessment of how gender interacts with broader structures of disadvantage. This approach is further reinforced by *General Recommendation No. 33 on women’s access to justice*, which recognises that multiple and intersecting forms of discrimination may create additional barriers to effective access to justice. Women belonging to disadvantaged groups may therefore experience discrimination resulting from the combined effects of gender and other characteristics, including ethnicity, disability, poverty or migration status.

The Committee’s jurisprudence has increasingly reflected this understanding. In *S.B. and M.B. v. North Macedonia*, concerning Roma women who experienced barriers in accessing gynaecological healthcare, the CEDAW Committee recognised that discrimination against women may be inseparably connected with ethnicity and other factors. The decision emphasised that Roma women may experience discrimination differently from both Roma men and non-Roma women because gender and ethnic discrimination interact in a mutually reinforcing manner. This case is particularly significant for North Macedonia because it demonstrates that intersectionality is not merely a theoretical concept but a practical requirement for assessing state responsibility under international human rights law.

A further important contribution to the development of substantive equality comes from the Convention on the Rights of Persons with Disabilities. The CRPD represents a paradigm shift from a medical model of disability towards a human rights model based on dignity, autonomy, participation and inclusion. The Committee on the Rights of Persons with Disabilities has developed the concept of

“inclusive equality”, particularly through *General Comment No. 6 on equality and non-discrimination*. Inclusive equality builds upon substantive equality and identifies four interconnected dimensions: i) A redistributive dimension, addressing socioeconomic disadvantage and unequal access to resources; ii) A recognition dimension, addressing stigma, stereotypes, prejudice and violence against persons with disabilities; iii) A participatory dimension, ensuring meaningful involvement of persons with disabilities in social, political and economic life; and iv) An accommodating dimension, recognising difference and requiring reasonable accommodation to enable equal participation. This framework is highly relevant for intersectionality because persons with disabilities frequently experience discrimination in combination with other characteristics, including gender, age, ethnicity and socioeconomic status.

The Committee has specifically recognised that women and girls with disabilities experience intersecting forms of discrimination resulting from the interaction between gender inequality and disability-related barriers. *General Comment No. 3 on women and girls with disabilities* highlights that they face increased risks of violence, exclusion from education, barriers to healthcare and limited participation in decision-making due to intersecting discrimination. The CRPD framework therefore demonstrates the movement within international law towards recognising that equality requires transformation of social structures rather than merely removal of formal barriers.

2.2. European Union law

The European Union equality framework has traditionally developed through a ground-specific approach, with separate legal instruments addressing discrimination based on sex, race or ethnic origin, disability, age, religion or belief, and sexual orientation. While this model has provided significant protection, it has also generated fragmentation, as individuals experiencing multiple forms of discrimination do not always fit within a single protected category. Recognition of intersectionality within EU equality law has therefore developed progressively through academic scholarship, judicial interpretation and policy initiatives aimed at strengthening substantive equality.

The principle of equality is embedded in the Treaty on European Union and the *Charter of Fundamental Rights of the European Union*. Article 20 of the Charter guarantees equality before the law, while Article 21 prohibits discrimination on multiple grounds, including sex, race, ethnic origin, disability, age and sexual orientation.

The EU equality acquis includes several key directives, including: *Directive 2000/43/EC implementing equal treatment between persons irrespective of racial or ethnic origin*; *Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation*; *Directive 2004/113/EC concerning equal treatment between men and women in access to goods and services*; *Directive 2006/54/EC on equal opportunities and equal treatment between men and women in*

employment and occupation. Despite their importance, these instruments generally conceptualise discrimination through separate protected grounds. Consequently, individuals experiencing intersectional discrimination may face difficulties where legal frameworks and institutional procedures require identification of a single predominant ground.

European equality scholarship has highlighted these limitations. Dagmar Schiek argues that the fragmented structure of EU equality law may fail to adequately address experiences that cannot be reduced to one protected characteristic, advocating for integrated equality approaches capable of recognising interactions between different forms of disadvantage. Similarly, Mieke Verloo argues that European equality policies often operate through separate frameworks, such as gender mainstreaming, anti-racism and disability inclusion, without sufficiently examining their interrelationship.

Although the Court of Justice of the European Union (CJEU) has not developed a comprehensive doctrine of intersectional discrimination comparable to Crenshaw's theoretical framework, its jurisprudence demonstrates increasing awareness of multiple and overlapping forms of disadvantage. In *P v S and Cornwall County Council*, the Court recognised discrimination related to gender identity within the broader framework of sex discrimination, reflecting an evolving interpretation of protected characteristics. In *K.B. v National Health Service Pensions Agency*, the Court addressed discrimination related to gender reassignment and access to employment benefits. Furthermore, cases concerning age and gender demonstrate judicial recognition that disadvantage may arise from the interaction of multiple characteristics, as illustrated by the *Marshall* case concerning older women.

Nevertheless, EU judicial protection remains constrained by the absence of a distinct legal category of intersectional discrimination within existing equality directives. Consequently, effective protection continues to depend significantly on judicial interpretation, national implementation and the willingness of equality institutions to adopt broader substantive equality approaches.

3. THE LEGAL AND INSTITUTIONAL FRAMEWORK IN NORTH MACEDONIA

3.1. Law on Prevention and Protection against Discrimination

The development of the anti-discrimination framework in North Macedonia reflects the broader international and European shift from a formal understanding of equality towards a substantive and transformative approach. The adoption of the *Law on Prevention and Protection against Discrimination* (LPPD) in 2020 constituted a significant milestone in strengthening national equality protection by expanding legal safeguards, reinforcing institutional mandates and aligning domestic legislation with international human rights standards and the European Union equality acquis.

The LPPD establishes equality and the prohibition of discrimination as fundamental principles governing the enjoyment of human rights and freedoms.

Pursuant to Article 2, the purpose of the Law is to ensure equality and prevent and protect against discrimination in the exercise of rights and freedoms. Importantly, the LPPD moves beyond a purely formal conception of equality by recognising that public authorities and other relevant actors have obligations to actively promote equality and prevent discriminatory practices. This reflects the transition towards substantive equality, under which the state is required not only to refrain from discriminatory conduct but also to address conditions producing disadvantage.

The Law provides protection against discrimination on a broad range of grounds, including sex, gender, gender identity, sexual orientation, race, colour of skin, ethnic origin, disability, age, religion or belief, political affiliation, social origin, property status, health condition, personal status and other characteristics. The inclusion of an open-ended category of “other status” demonstrates the dynamic nature of equality protection and enables the legal framework to respond to evolving forms of exclusion. A particularly significant development is the explicit recognition of multiple, repeated, prolonged and intersectional discrimination as aggravated forms of discrimination. Article 13 of the LPPD recognises intersectional discrimination as a distinct phenomenon, acknowledging that disadvantage may arise from the interaction of several protected characteristics rather than from a single ground. This represents an important departure from traditional anti-discrimination models based primarily on individual protected characteristics.

Nevertheless, translating this legal recognition into practice remains challenging. Conventional anti-discrimination frameworks generally require establishing a causal connection between a protected ground and adverse treatment, whereas intersectional discrimination involves more complex interactions between identities, social structures and institutional practices. Effective implementation therefore requires enhanced institutional capacity, methodological guidance and awareness among equality bodies, courts and public authorities.

The LPPD further introduces a proactive obligation to promote equality. Article 3(3) requires state bodies, local self-government units, public institutions, entities exercising public authority and other relevant actors to undertake measures aimed at advancing equality and preventing discrimination. This provision reflects a shift from reactive protection based primarily on individual complaints towards preventive equality governance. From an intersectional perspective, this obligation is particularly important because it requires institutions to assess whether apparently neutral policies and practices disproportionately affect groups experiencing multiple forms of disadvantage. Policies concerning women’s employment, for example, require consideration of the specific experiences of rural women, women with disabilities, Roma women, migrant women and women facing economic marginalisation. Similarly, disability policies must account for the interaction between disability, gender, age, ethnicity and socioeconomic status in determining access to rights.

Despite these progressive elements, implementation of the LPPD continues to face structural challenges. Similar to many European jurisdictions, the national

equality framework remains predominantly complaint-driven, with institutions often focusing on individual instances of discrimination rather than broader patterns of institutional and structural inequality. Consequently, the transition from the legal recognition of intersectionality towards its systematic institutional application remains an ongoing process.

3.2. Jurisprudence of the Commission for Prevention and Protection against Discrimination

The Commission for Prevention and Protection against Discrimination represents the central equality body responsible for implementing the anti-discrimination framework in North Macedonia. Established under the LPPD, the CPPD performs multiple functions, including deciding on complaints, issuing opinions and recommendations, monitoring equality developments, promoting equality, conducting research, cooperating with public institutions and civil society, and raising public awareness.

The evolution of equality bodies across Europe demonstrates a transformation from primarily complaint-handling institutions towards broader mechanisms of equality governance. Modern equality bodies increasingly perform preventive, advisory and monitoring functions aimed at addressing structural discrimination and institutional practices. This development is reflected in the adoption of *European Union Directives (EU) 2024/1499 and 2024/1500*, which establish common standards regarding independence, effectiveness, accessibility, resources and mandates of equality bodies. These standards are particularly relevant for candidate countries such as North Macedonia in strengthening institutional capacity and aligning national equality mechanisms with European requirements.

The practice of the CPPD provides important insight into the practical application of intersectionality. The Commission has increasingly recognised that discrimination may result from the interaction of multiple protected characteristics rather than isolated grounds. This is particularly evident in cases involving women experiencing disadvantage due to combinations of gender, ethnicity, disability, socioeconomic status, rural origin or marginalised community membership. One significant area concerns discrimination against Roma women in access to healthcare. In cases involving Roma women, the CPPD has recognised that barriers to healthcare cannot be adequately understood solely through the lens of ethnic discrimination or gender discrimination. Rather, Roma women may experience a distinct form of disadvantage resulting from the interaction between gender inequality, ethnic prejudice, poverty and institutional barriers. These cases demonstrate the practical relevance of intersectionality, as the experiences of Roma women differ from those of Roma men and non-Roma women. More precisely, in the CPPD case in relation to *Application No. 08-121/1 of 18 February 2022, Opinion of 16 August 2022*, concerning Roma women living in the Municipality of Šuto Orizari, the CPPD established direct, prolonged and intersectional discrimination on the grounds of sex, race, ethnicity, social origin and membership of a marginalised

group, committed by the Ministry of Health in the area of health insurance and healthcare. For an extended period, approximately 8,000 Roma women of reproductive age were denied access to primary gynaecological and obstetric healthcare on an equal basis with women living in other municipalities of Skopje. The case is particularly significant from an intersectional perspective because the Commission did not treat the women's disadvantage solely as gender discrimination or solely as ethnic discrimination; rather, it recognised that their exclusion resulted from the interaction of gender, Roma ethnicity, social origin and marginalised-group status. The case therefore illustrates how intersectionality can reveal forms of structural exclusion that may remain invisible when discrimination is analysed through a single protected characteristic. It also demonstrates the CPPD's recognition that prolonged denial of essential healthcare can constitute a form of structural and institutional inequality affecting a specific group of women.

Similarly, the CPPD has addressed cases involving women farmers excluded from social protection benefits related to pregnancy, childbirth and maternity. The Commission identified discrimination connected with sex, gender, personal status and membership of a marginalised group, demonstrating how apparently neutral legal frameworks may reproduce inequality when they fail to account for the socioeconomic realities of specific groups of women. This case is elaborated as a case study below.

Another important area concerns education and segregation. The CPPD has examined cases involving Roma children facing segregation in educational institutions, recognising that discrimination may result not only from ethnic origin but also from socioeconomic marginalisation and structural exclusion. More precisely, in the CPPD case in relation to *Application No. 08-89/1 of 8 October 2021*, *Opinion of 3 February 2022*, and *Application No. 08-92/1 of 9 February 2022*, *Opinion of 13 April 2022*, the CPPD found indirect discrimination involving the primary schools “Gjorgji Sugarev” in Bitola and “Goce Delchev” in Shtip, concluding that the schools had violated Roma children's right to education through segregation. The significance of these cases lies in the CPPD's recognition that apparently neutral practices relating to school enrolment and the implementation of school catchment areas can produce a disproportionately negative effect on Roma children and contribute to their institutional separation. Importantly, the Commission went beyond finding discrimination in the individual cases and issued *General Recommendation No. 08-244/1 of 27 April 2022*, recommending that the competent local authorities consistently implement school catchment-area rules in order to achieve the desegregation of Roma children. This represents an important shift towards a structural and transformative approach, as the CPPD addressed not only the discriminatory outcome affecting individual children but also the institutional practices contributing to segregation.

Likewise, cases concerning children with disabilities demonstrate how disability discrimination may intersect with age, educational status and institutional practices that limit meaningful inclusion. Namely, in the CPPD case in relation to

Application No. 08-82/1, Decision of 3 February 2022, Opinion of 7 March 2022, concerning the segregation and exclusion of a schoolgirl with a disability in a primary school in Gostivar, the CPPD initiated the proceedings *ex officio* after receiving media reports indicating possible segregation. The Commission established that the school had subjected the pupil to segregation and exclusion on the ground of disability by physically separating her from classmates without disabilities, thereby preventing her effective participation in an inclusive educational process. It also found direct and prolonged discrimination because the school failed to adapt its infrastructure by providing an appropriate resource-sensory room equipped with assistive technology, which prevented the pupil from accessing education on an equal basis with other students in light of her disability and special educational needs. In addition, the CPPD found that eleven parents of the pupil's classmates had engaged in incitement, encouragement and instruction to discriminate, through a petition demanding her removal from regular classes and a boycott of teaching until their demands were met. The case is significant because it illustrates how discrimination can operate simultaneously at the institutional and social levels: exclusion was produced both through the school's failure to provide reasonable and inclusive educational conditions and through pressure from other parents seeking the pupil's removal. Although the case was primarily analysed through disability and health status rather than multiple intersecting protected characteristics, it demonstrates the CPPD's broader shift towards identifying institutional practices, prolonged exclusion and the need for proactive intervention, including through proceedings initiated on its own initiative.

Thus, the CPPD's practice illustrates a gradual shift from viewing discrimination as an isolated individual act towards recognising broader patterns of institutional exclusion. However, challenges remain concerning consistent terminology, evidence collection, causal analysis and effective remedies. The identification of multiple grounds alone does not constitute an intersectional analysis; it requires demonstrating how different forms of disadvantage interact and contribute to a specific discriminatory outcome.

Strengthening the analytical capacity of equality bodies is therefore essential. Institutions must develop methodologies capable of identifying structural discrimination, evaluating institutional practices and assessing cumulative disadvantage. This requires not only legal expertise but also interdisciplinary approaches incorporating gender analysis, sociology, public policy evaluation and equality data methodologies.

The future development of the CPPD should therefore be understood within the broader European transformation of equality governance. Its effectiveness will depend not only on resolving individual complaints but also on its capacity to influence legislation, public policies, administrative practices and institutional cultures. Within this framework, intersectionality provides both a conceptual and operational tool for strengthening the CPPD's preventive and transformative role.

3.3. Case study from the Commission for Prevention and Protection against Discrimination

*CPPD case on Individual female farmers and access to health-insurance
benefits (Application No. 08-574/1, Opinion of 2 March 2023)*

A particularly significant example of the CPPD's emerging intersectional approach is *Application No. 08-574/1, submitted on 7 November 2022*, with the *Commission's Opinion adopted on 2 March 2023*. The case concerned the exclusion of individually registered female farmers from certain health-insurance benefits, specifically compensation for loss of income during absence from work because of pregnancy, childbirth and maternity, as well as compensation during temporary incapacity for work due to illness or injury. The complaint was directed principally against the Ministry of Health, with the former Ministry of Labour and Social Policy (current Ministry of Social Policy, Demography and Youth) and the Ministry of Agriculture, Forestry and Water Economy also involved in the proceedings. The CPPD ultimately established indirect, prolonged and intersectional discrimination against individual female farmers on the grounds of sex, gender, personal status, described by the Commission in the context of women farmers originating from rural areas, and membership of a marginalised group. The case is therefore important because the disadvantage was not understood simply as discrimination against women, or simply as discrimination against farmers. Rather, the Commission examined the particular position produced by the interaction between being a woman, being an individual farmer, having a rural background and belonging to a marginalised socioeconomic group.

The factual and legal problem arose from the structure of the health-insurance system. Individual farmers were recognised as compulsory health-insurance contributors, but the relevant legislative framework did not provide them with the same entitlement to compensation for temporary incapacity and maternity-related absence that was available to other categories of insured persons. The Commission examined the relevant provisions of the Health Insurance Law and related legislation and noted that individual farmers were expressly included among compulsory insured persons, while the statutory arrangements governing compensation did not provide them with equivalent protection. This created an important distinction between formal insurance coverage and the effective enjoyment of social-protection rights: the women were insured, but their insured status did not translate into equal access to the associated income-replacement benefits. The CPPD also considered the socioeconomic reality of agricultural work. Its reasoning recognised that individual women farmers cannot necessarily suspend agricultural activity during pregnancy, childbirth or illness in the same manner as employees in conventional employment relationships. The Commission referred to evidence concerning the economic pressures faced by women in agriculture and the health risks associated with continuing agricultural work during pregnancy, as well

as the practical consequences of having no income replacement during periods when they cannot perform agricultural labour.

How the CPPD identified intersectional discrimination?

The most significant methodological feature of the Opinion is that the CPPD did not stop at identifying several discrimination grounds. It expressly connected the grounds and considered them cumulatively. The Commission reasoned that individual female farmers were placed in a less favourable position compared with other compulsory health-insurance beneficiaries because of the intersectionally connected grounds of sex, gender, personal status and membership of a marginalised group. This is consistent with the definition of intersectional discrimination under Article 4(1)(13) of the Law on Prevention and Protection against Discrimination, which defines intersectional discrimination as discrimination arising from two or more discrimination grounds that occur simultaneously and inseparably. The Commission also distinguished this from indirect discrimination under Article 8(2), which concerns apparently neutral rules or practices that place a person or group in a particularly disadvantageous position compared with others.

The CPPD's reasoning can therefore be reconstructed through a three-level comparison. *First*, individual farmers were disadvantaged in comparison with other insured persons because of their personal status as individual farmers. *Second*, female individual farmers experienced an additional disadvantage because the consequences of the exclusion were specifically connected with pregnancy, childbirth and maternity and therefore implicated sex and gender. *Third*, the CPPD situated this disadvantage within the broader socioeconomic position of rural women and their membership in a marginalised group. The result was not merely the accumulation of four separate disadvantages, but a specific form of disadvantage produced through their interaction. This is precisely what makes the case analytically valuable for an intersectionality argument: the experience of an individual female farmer could not be adequately captured by asking only whether she was treated differently from men, or only whether farmers were treated differently from non-farmers. The relevant comparison was the position of women who occupy the particular social and occupational position of individual farmers. The CPPD itself subsequently described the case as one in which the intersectional connection between personal status and membership of a marginalised group disadvantaged individual farmers, while the disadvantage experienced by women farmers additionally resulted from the intersection of sex, gender, personal status and marginalised-group status.

The Commission also characterised the discrimination as prolonged/continued discrimination because the disadvantage was not an isolated incident but resulted from a legislative and institutional arrangement operating continuously over an extended period. The Opinion expressly linked this temporal dimension to the statutory definition of prolonged discrimination, treating the

continuous application of the discriminatory framework as an aggravating form of discrimination. This is important for your broader argument concerning structural discrimination: the discriminatory outcome was generated not by an individual official's discriminatory intention but by the operation of legislation and institutional arrangements that systematically placed a defined category of insured persons in a less favourable position.

Strengths of the CPPD's reasoning

The strongest aspect of the Opinion is that it moves beyond formal equality and single-ground reasoning. The Commission did not simply say that women farmers were discriminated against because they were women. Instead, it recognised that the legal classification of individual farmers interacted with gender and socioeconomic marginalisation to produce a distinct disadvantage. This represents a meaningful application of intersectionality in institutional decision-making. It is particularly significant because the CPPD connected the legal analysis to the actual social consequences of the regulatory framework, including the inability of women farmers to cease agricultural activity without losing income and the particular health and economic risks associated with pregnancy and maternity in agricultural work.

A second strength is the CPPD's identification of the structural character of the problem. The source of the disadvantage was embedded in the design and operation of the health-insurance regime rather than in an isolated decision affecting one individual. The Commission therefore treated the problem as one requiring examination of the interaction between legal status, social protection and socioeconomic position. This is consistent with the paper's broader argument that equality bodies should move beyond reactive complaint-handling and develop the capacity to identify institutional patterns of inequality. The CPPD's own practice, however, acknowledges that identifying multiple grounds is insufficient unless the institution demonstrates how those grounds interact and contribute to the discriminatory outcome.

A third strength is that the CPPD distinguished direct from indirect discrimination. It did not claim that the legal framework explicitly stated that women farmers should receive fewer benefits because they were women. Instead, the apparently neutral regulatory structure produced a disproportionately disadvantageous effect for a particular group. This is conceptually important because intersectional discrimination frequently operates through rules that appear neutral when each protected characteristic is examined separately. The Commission's approach therefore illustrates how an equality body can use indirect-discrimination analysis as a vehicle for identifying intersectional disadvantage.

Weaknesses and limitations

Nevertheless, the reasoning also has important limitations. *First*, the intersectional analysis could have been more systematically developed. Although the Commission identifies the relevant grounds and states that they are “intersectionally connected”, the reasoning does not fully theorise *how each ground interacts with the others to produce a qualitatively distinct form of disadvantage*. In other words, the decision reaches the correct intersectional conclusion, but parts of the reasoning risk becoming a cumulative listing of characteristics: woman plus farmer plus rural background and plus marginalised group, rather than a fully developed analysis of the mechanism through which these characteristics interact. This distinction is important because intersectionality is not simply the addition of discrimination grounds; it requires demonstrating how the interaction of those grounds produces a particular social and institutional experience.

Second, the comparator analysis could be stronger. The CPPD compares individual female farmers with other compulsory insured persons, but a more rigorous intersectional analysis could have used several comparators: individual male farmers, female employees, self-employed women and other rural insured women. Such comparisons would help isolate which part of the disadvantage derives from occupational status, which from gender, and which from their interaction. The Commission's conclusion is persuasive, but a more explicit multi-comparator methodology would make the causal relationship between the different grounds considerably clearer.

Third, there is a gap between identifying structural discrimination and specifying structural remedies. The CPPD establishes that the legislative framework places individual farmers in a disadvantaged position, but the transformative potential of the decision would be stronger if the reasoning systematically addressed the institutional reforms necessary to eliminate the underlying inequality. This is particularly relevant because the CPPD has a broader mandate encompassing monitoring, research, promotion of equality and recommendations, rather than merely resolving individual complaints. Thus, the case demonstrates both the promise and the limits of the Commission's intersectional methodology: it successfully identifies a complex form of disadvantage, but the analytical and remedial framework could be further developed to translate that finding into comprehensive structural reform.

4. STRUCTURAL DISCRIMINATION AS A GOVERNANCE CHALLENGE

4.1. From Individual Violations to Structural Patterns of Inequality

The development of equality law demonstrates increasing recognition that discrimination cannot be understood solely through individual acts of unequal

treatment. While traditional anti-discrimination frameworks have focused on identifying a discriminatory act, perpetrator and individual victim, contemporary understandings of inequality acknowledge that disadvantage is often produced through broader institutional, social and economic structures. These may operate through formally neutral legislation, administrative procedures, organisational cultures, resource allocation systems or embedded social norms that systematically disadvantage particular groups.

Structural discrimination therefore shifts the focus of equality analysis from isolated incidents towards patterns, systems and institutional arrangements. Unlike direct discrimination, it does not necessarily depend on discriminatory intent but emerges through the interaction between apparently neutral rules and historically accumulated inequalities that generate disproportionate impacts.

As Fredman argues, structural discrimination may persist despite formally neutral legal frameworks because institutions continue to reproduce historical inequalities through organisational decision-making, professional practices and social expectations. Achieving substantive equality therefore requires not only eliminating discriminatory treatment but also transforming the structures through which inequality is produced and maintained. This transformative approach challenges the assumption that removing explicit discriminatory rules is sufficient and instead requires examining how institutions contribute to patterns of exclusion.

Structural discrimination is particularly significant when examined through an intersectional perspective. Inequalities rarely operate independently; rather, gender inequality, ethnic exclusion, ableism, age discrimination and socioeconomic disadvantage frequently interact and reinforce each other. For instance, barriers faced by Roma women in accessing healthcare cannot be explained solely through gender or ethnic discrimination but result from the combined effects of patriarchal norms, ethnic marginalisation, poverty, institutional practices and limited access to information and services.

Consequently, addressing structural discrimination requires methodologies capable of identifying not only who experiences disadvantage but also the institutional and social mechanisms through which inequality is reproduced.

4.2. Structural Discrimination and the Limits of Traditional Equality Law

Traditional anti-discrimination law has largely been based on an individual complaint model, whereby a person alleging discrimination initiates proceedings before a competent authority, which assesses whether unequal treatment occurred on a prohibited ground. While this model has been essential for developing equality jurisprudence and providing remedies, its capacity to address structural inequalities remains limited.

First, individual complaint mechanisms depend heavily on individuals' ability to recognise discrimination, access legal assistance and undertake potentially lengthy proceedings. Persons experiencing multiple vulnerabilities often face

additional barriers in accessing justice, including poverty, lack of information, language barriers, disability-related obstacles, geographical isolation and distrust towards institutions. Consequently, the groups most affected by structural discrimination are frequently the least able to utilise individual enforcement mechanisms. *Second*, individual proceedings generally focus on the specific facts of a particular case rather than broader institutional patterns. Even where discrimination is established, remedies are often limited to correcting the individual violation rather than transforming the policies or practices that generated the discriminatory outcome. *Third*, intersectional discrimination exposes the limitations of single-ground legal analysis. Institutions may recognise that discrimination occurred based on gender or ethnicity separately but fail to capture how the interaction between these characteristics creates a distinct form of disadvantage. This fragmented approach risks producing incomplete legal reasoning and inadequate remedies.

For this reason, contemporary equality governance increasingly emphasises preventive approaches, equality mainstreaming and institutional accountability. The objective is not only to respond to discrimination after it occurs but to identify and eliminate conditions that enable discrimination to emerge.

4.3. Equality Bodies as Actors of Structural Transformation

The shift from individual protection towards proactive equality governance places equality bodies at the centre of institutional transformation. Modern equality bodies are no longer understood merely as complaint-handling mechanisms but as strategic institutions responsible for monitoring equality trends, advising governments, supporting legislative reform, conducting research, promoting awareness and addressing systemic inequalities.

Reif, Bell, O’Cinneide and Chopin demonstrate that independent equality bodies perform multiple interconnected functions, including strategic litigation, legislative monitoring, equality mainstreaming, public education, policy advice and institutional accountability. Their effectiveness depends not only on formal independence but also on adequate resources, broad mandates, accessibility and the capacity to influence public policy processes.

The adoption of *EU Directives (EU) 2024/1499 and 2024/1500* represents an important development in the European framework governing equality bodies, particularly by strengthening requirements concerning their independence, effectiveness, accessibility, resources and institutional mandates. However, their significance should not be understood as providing a complete solution to the challenges of intersectional and structural discrimination. The implementation of the Directives may prove particularly complex in national systems where equality protection has traditionally been organised around separate protected grounds and where institutional responsibilities are distributed among different bodies. In such contexts, questions may arise concerning the allocation of competences, coordination between institutions, applicable procedures and the legal classification of cases involving multiple and intersecting grounds. The implementation process also has

significant resource implications. Expanding the functions of equality bodies beyond complaint-handling towards monitoring, research, strategic litigation, equality data collection, awareness-raising and policy evaluation requires adequate and sustainable financial resources, specialised personnel and institutional capacity. Consequently, formal legislative alignment with the Directives will not necessarily result in effective implementation unless accompanied by sufficient investment and institutional reforms. This is particularly relevant for North Macedonia, where the CPPD already possesses a broad mandate but continues to face challenges in translating formal equality commitments into systematic institutional practice.

A further challenge concerns the practical operationalisation of intersectionality itself. The recognition of intersectional discrimination in legislation and the strengthening of equality bodies do not automatically provide institutions with a methodology for determining when and how different forms of disadvantage interact. Effective intersectional analysis requires appropriate comparators, reliable and sufficiently disaggregated equality data, contextual evidence and institutional capacity to assess how legal rules, administrative practices and social conditions interact to produce cumulative disadvantage. There is a particular risk that intersectionality may be reduced to the identification or listing of several protected characteristics without demonstrating how their interaction produces a distinct form of discrimination. The CPPD's own practice illustrates this difficulty: while some decisions explicitly recognise intersectional discrimination, the Commission's analysis can still be strengthened by more systematic examination of causal relationships, comparators, evidence and structural remedies. The Directives should therefore be understood as establishing important institutional conditions for effective equality governance rather than as a self-executing model of intersectional protection. Their transformative potential will ultimately depend on how national institutions translate these standards into workable methodologies, adequately resourced practices and coordinated mechanisms capable of identifying and addressing structural and intersectional forms of inequality.

For candidate countries such as North Macedonia, these standards provide an opportunity to strengthen institutional frameworks and enhance the capacity of equality bodies to address structural discrimination through preventive and evidence-based approaches. In particular, equality bodies should be empowered to: i) conduct systemic equality assessments of legislation and public policies; ii) initiate investigations into patterns of discrimination without requiring individual complaints; iii) develop methodologies for identifying intersectional discrimination; iv) collect and analyse equality data disaggregated by multiple characteristics; v) engage in strategic litigation concerning structural inequalities; vi) issue recommendations capable of influencing institutional reforms; and vii) monitor implementation of equality obligations by public authorities. Such functions transform equality bodies from reactive dispute-resolution institutions into proactive governance actors.

4.4. Structural Discrimination in the Context of North Macedonia

The experience of North Macedonia demonstrates that many contemporary equality challenges are structural rather than merely individual. Despite the development of a comprehensive anti-discrimination framework, persistent inequalities continue affecting women, Roma communities, persons with disabilities, children, rural populations and other marginalised groups.

Gender inequality remains embedded within social and institutional structures, reflected in unequal participation in decision-making, occupational segregation, unequal distribution of unpaid care responsibilities and barriers to economic independence. These challenges are intensified when gender intersects with ethnicity, disability, age or socioeconomic status.

Roma communities represent another significant example of structural disadvantage. Despite legal guarantees of equality, Roma persons continue to experience barriers in education, healthcare, employment and housing. Roma women are particularly affected because gender inequality interacts with ethnic marginalisation and socioeconomic exclusion. Their experiences demonstrate the importance of intersectional analysis: gender equality policies may overlook ethnic barriers, while Roma inclusion policies may fail to address gender-specific forms of exclusion.

Persons with disabilities similarly encounter structural barriers resulting from inaccessible infrastructure, inadequate reasonable accommodation, limited inclusive education and persistent stereotypes. Women with disabilities may experience additional exclusion due to the interaction between disability and gender stereotypes concerning dependency, sexuality, reproductive autonomy and participation in public life.

These examples illustrate that structural discrimination is often reproduced through institutional arrangements rather than deliberate discriminatory conduct. Addressing such inequalities therefore requires systematic assessment of laws, policies and practices through an intersectional and transformative equality perspective.

5. CONCLUSIONS

The analysis demonstrates that contemporary equality law has moved beyond a purely formal prohibition of discrimination towards a substantive equality framework requiring states to address the structural conditions that generate and perpetuate disadvantage. Intersectionality has become an essential legal and analytical tool in this evolution because it enables recognition that discrimination may arise from the interaction of multiple protected characteristics and cannot always be adequately addressed through single-ground legal analysis.

International and European human rights standards increasingly confirm that equality entails positive obligations for states and institutions to identify, prevent and

remedy structural inequalities. The jurisprudence and interpretative practice of UN treaty bodies, the European Court of Human Rights and EU equality mechanisms illustrate a gradual shift towards assessing discrimination within its broader social and institutional context. However, the absence of a fully developed legal doctrine of intersectional discrimination, particularly within EU law, continues to create challenges regarding consistent legal qualification, evidence assessment and effective remedies.

The legal framework of North Macedonia reflects significant progress through the recognition of intersectional discrimination under the Law on Prevention and Protection against Discrimination and the strengthened mandate of the Commission for Prevention and Protection against Discrimination. Nevertheless, formal recognition alone is insufficient. Effective implementation requires institutional methodologies capable of identifying cumulative disadvantage, analysing structural patterns of exclusion and ensuring that remedies address not only individual violations but also the institutional practices producing discriminatory outcomes.

Equality bodies represent a critical mechanism for operationalising substantive equality. Their role must extend beyond adjudicating individual complaints towards systemic functions, including equality monitoring, impact assessment, strategic litigation, evidence-based policy recommendations and institutional accountability. The standards introduced by EU Directives 2024/1499 and 2024/1500 provide a relevant framework for strengthening these functions and aligning equality institutions in North Macedonia with evolving European standards.

Ultimately, addressing structural and intersectional discrimination requires a transformation of equality governance. The effectiveness of the national equality framework will depend on whether institutions are equipped to move from reactive protection towards preventive and transformative action, ensuring that equality is achieved not only in law but also in institutional practice and social reality.

To give effect to these conclusions, several forward-looking reforms are necessary. *First*, legislative reform should further clarify the legal treatment of intersectional and multiple discrimination, including clear provisions on its identification, assessment of cumulative disadvantage, burden of proof, and appropriate remedies. *Second*, the capacity of the CPPD should be strengthened through specialised training, methodological guidance, adequate human and financial resources, and the development of expertise in intersectional analysis, structural discrimination, equality monitoring and strategic litigation. *Third*, equality impact assessments should become an integral part of legislative and public-policy processes, requiring institutions to assess, before adoption and during implementation, how laws, policies and programmes may affect groups experiencing intersecting forms of disadvantage. *Fourth*, intersectional data collection should be developed in accordance with applicable data-protection and privacy safeguards, enabling institutions to identify patterns of cumulative disadvantage and structural

exclusion while avoiding the invisibility of groups whose experiences cannot be captured through single-category data.

Finally, the integration of the standards established by EU Equality Body Directives 2024/1499 and 2024/1500 should be treated as a strategic priority in the further development of North Macedonia's equality framework. This should include reviewing the CPPD's legal mandate, institutional independence, resources, investigative and monitoring capacities, access to data, cooperation with public authorities and civil society, and ability to issue evidence-based recommendations and pursue systemic forms of discrimination. Taken together, these measures would allow North Macedonia to move beyond the formal recognition of intersectionality towards its effective institutionalisation, ensuring that equality governance becomes preventive, evidence-based and transformative and that legal protection responds to the complex and intersecting realities of discrimination.

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