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Education for Citizenship and Fundamental Rights: Equality and Non-Discrimination – European Values

Gina ORGA-DUMITRIU [1]

[1] PhD, Associate Professor, Faculty of Law, „Lucian Blaga" University of Sibiu, Romania; ginadumitriu@yahoo.com; ORCID: https://orcid.org/0009-0007-7301-5384;

Abstract: *The mission of education goes beyond the mere utilitarian goal of acquiring skills and professional qualifications, even though these contribute to economic freedom and individual well-being. The turbulent history of the struggle against inequality, the nonviolent resistance championed by Gandhi, and Martin Luther King's pursuit of the "dream" all demonstrate the crucial role of education in promoting democratic culture, fundamental rights and the rule of law. It is no coincidence that the words Simone Veil, the first President of the European Parliament, wished to have inscribed on her Immortals' sword upon her admission to the French Academy were the number tattooed on her at Auschwitz (78651), the motto of the French Republic -"Liberty, Equality, Fraternity"and the motto of the European Union - "United in Diversity". These symbols collectively remind us that education is not merely a pathway to individual success, but a vehicle for preserving dignity, freedom, equality, and human solidarity.*

Civic awareness and education in the spirit of European values become the "soft weapons" we can activate against discrimination, violence, xenophobia, and extremism within a society marked by diversity, social cohesion, equity, and inclusion. The article explores how the protection of human rights has evolved from judicial protection to codification through treaties and the expansion of the principle of non-discrimination beyond its traditional areas of application, including education and vocational training. It further outlines recent developments and identifies areas that remain insufficiently articulated, requiring more effective judicial protection.

The analysis employs (i) a normative approach, by examining relevant provisions, more precisely, through grammatical, systematic, and teleological interpretation of the instruments related to the right to education within the international system of the United Nations and at the European level, and (ii) a practical approach, through the analysis of the case law of the European Court of Human Rights and the Court of Justice of the European Union, highlighting the added-value elements concerning discrimination in access to education on grounds of ethnic origin, nationality, or genetic characteristics.

Keywords: *fundamental rights; Union citizenship; non-discrimination; right to education; access to education.*

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Introduction

In one of his seminal works, *Europe and the People Without History*, the iconoclastic anthropologist Eric Robert Wolf wrote that "the conventional and complacent history of civilization is one in which Ancient Greece begat Rome, Rome begat Christian Europe, Christian Europe begat the Renaissance, the Renaissance begat the Enlightenment, and the Enlightenment begat political democracy and the Industrial Revolution. In turn, industry merged with democracy to create the United States of America, a personification of the right to life and liberty and the pursuit of happiness." (Wolf, 1982). Continuing this way of understanding history - viewing it "through the eyes of the recent victors" (Frankopan, 2019), one could argue that the rivalries among European powers culminating in the two devastating world wars and their catastrophic consequences were, in fact, the seeds of the revival of the idea of European unity. The signatories of the Treaty of Rome, in 1957, carried with them the memory of their youth spent in the open and cosmopolitan Europe of the *Belle Époque*, a world brutally shattered by the bloody conflict of the First World War. As mature individuals, they undoubtedly shared pacifist and humanist aspirations during the interwar period - ideals that were soon swept away by a deep economic crisis and its catastrophic political aftermath. Assuming their historical responsibilities, they later took part, at the end of the Second World War, in shaping an economic order that, though not revolutionary, was structured around the Bretton Woods Agreements and the General Agreement on Tariffs and Trade (GATT) of October 1947 (Gavalda et al., 2019). Wishing to withstand the emerging global powers - the United States of America and the former USSR - the visionary leaders of the new Europe saw in European integration a vital source of stability and renewal.

Undoubtedly, this wager on the future finds its roots in the legacy of European legal thought, which over the centuries has shaped a corpus of shared principles and values. The emergence of the Communities as the initial level of European integration was subsequently strengthened by the legal success of establishing an original body of law - whose defining features were articulated by the Court of Justice in Luxembourg - by the economic success marked by the progressive enlargement of the Communities, and finally by the political success enshrined in the Maastricht Treaty. The failure of the Constitutional Treaty, Brexit, and tensions at certain borders attest to the unpredictable nature of the future - bringing to mind Jean Monnet's prophetic response when asked how far the common

market might expand: "everywhere there are churches." And there are churches in Mariupol and all the way to Istanbul.

Human rights and the right to education in the european legal order

The ideological foundations and the modern conception of human rights are closely linked to the establishment of the United Nations (UN) in 1945 and, subsequently, the Council of Europe in 1949. Adopted in Paris on December 10, 1948 by the United Nations General Assembly, the Universal Declaration of Human Rights (UDHR or Declaration) was an act of restoring human dignity severely violated by the horrific experiences humanity endured during the Second World War. Drafted following the model of the French Declaration of the Rights of Man and of the Citizen of 1789 and the United States Declaration of Independence of 1776, this „modern Magna Carta of humanity" (Ciucă, 2024a) was signed by 58 member states of the UN General Assembly, while eight countries abstained, including the USSR, Eastern European countries, South Africa, and Saudi Arabia. The formulation of the right to education provided in Article 26 of the UDHR can be described as surprisingly comprehensive in terms of its content and the guarantees it offered at the time of its adoption. The placement of the right to education between the right to an adequate standard of living (Article 25 of the Declaration) and the right to participate in the cultural life of the community (Article 27 of the Declaration) is telling of the way this right was perceived by the drafters of the Declaration. The acquisition of skills and qualifications represents the key to economic prosperity; however, a purely utilitarian view of schooling remains insufficient without the integration of social dialogue and multiculturalism. This underlying framework is implicitly confirmed by more recent assessments from commentators such as expert Paul Hunt, who describes the right to education as "both a fundamental right in its own right and a key to the exercise of other human rights inherent to the individual." The content of the right to education includes the obligation to provide, and the guarantee of, free elementary education, access to technical and vocational education, while equality of opportunity and meritocracy characterize access to higher education. Personal and social development through the cultivation of democratic values (Moots and Patterson, 2024; Kubica, 2022) are equally established as objectives of the educational process. The transmission of knowledge cannot be merely the lever ensuring the profitable exploitation of human capital in contemporary societies that tend to promote models of efficiency and competitiveness. The explicit mention in Article 26 of the Declaration of "respect for human rights and

fundamental freedoms" links the right to education with the values of equity and social justice. Educational policies cannot be built solely around economic imperatives but must also be grounded in the principles of social responsibility, ethics (Frunză, 2014) and solidarity. The recognition of parents' right to have priority in choosing the type of education for their minor children completes the prerogatives enshrined in Article 26 of the UDHR.

Subsequently, the adoption by the Council of Europe of the European Convention on Human Rights and Fundamental Freedoms (ECHR), signed in Rome on 4 November 1950 (and entered into force on 3 September 1953), was undoubtedly a landmark achievement. However, our perception of the realities concerning its effective implementation has often been split between an optimistic view - seeing fundamental rights as universal and indivisible, almost forming a secular 'religion' of contemporary society, and a more realistic perspective, which acknowledges doubts regarding the erosion of, and even attacks on, human rights in certain geopolitical contexts. The protection of the right to education is guaranteed under Article 2 of Protocol No. 1 to the ECHR, which recognizes an individual right to education. This right is not absolute; any restrictions are only permissible for legitimate aims, provided that the applicable rules are predictable. The Protocol also acknowledges the right of parents to ensure education in accordance with their religious and philosophical convictions

In the early dawn of European integration, the primarily economic purpose of the Treaty of Rome (1958), together with the protection of fundamental rights through a specific instrument - the ECHR, are contextual elements explaining the initial approach of the treaty drafters. Subsequent developments moved towards a broader and more satisfactory vision. It was the merit of the Court of Justice of Luxembourg to promote the safeguarding of human rights (Bîrsan, 2010; Selejan-Guţan, 2023; Bercea, 2020) when it held that "*respect for fundamental rights forms an integral part of the general principles of law, protected by the Court of Justice*" (CJEU, 1970). This judicial protection of human rights (Ciucă, 2024b; Popescu, 2020; Selejan-Guțan, 2015) was accompanied by the political stance expressed in April 1977 by the leaders of the European institutions. The political choice of European decision-makers was certainly influenced by the international climate promoting human rights and by the entry into force in 1976 of instruments adopted by the UN General Assembly, such as the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR).

Although we do not intend here to provide a chronicle of the integration of human rights into the the European legal system (Orga-Dumitriu, 2025), it is worth recalling certain key milestones. The objective of making the EU a '*space of freedom, security and justice*' and the placement of policies on the free movement of persons under Community methods through the Treaty of Amsterdam (in force as of 1 May 1999) represented a decisive phase. Shortly thereafter, the proclamation of the Charter of Fundamental Rights of the European Union (CFREU or the Charter) on December 7, 2000, at the European Council in Nice marked their full recognition. After the historical moment of the signing of the Treaty of Lisbon, the explicit affirmation of human rights as one of the EU's "values" (Article 2 of the TEU) reflects the prominent status of fundamental rights at a mature stage of EU law. Furthermore, under Article 6(1) TEU, the Charter has obtained legal force equivalent to that of the Treaties, thereby affirming the reinforced legal standing of fundamental rights within the European Union.

Through its structure and content, it presents itself as a modern instrument for strengthening fundamental rights, taking into account recent social, scientific, and technological developments (Ciucă, 2017). In the specific context of this study, added-value elements stem from the fact that disability, age, and sexual orientation (Eckes, 2021) are among the grounds on which discrimination is prohibited.

In view of Article 6 (2) of the Lisbon Treaty provides that "the Union shall accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms," in 2010 the European Union opened negotiations with the Council of Europe on a draft accession agreement, which was finalized in April 2013. The completion of this process has not been viewed as merely utopian by legal scholarship. In its negative opinion of December 18, 2014, the CJEU held that the agreement was likely to adversely affect the specific characteristics and autonomy of EU law.. Critical voices have interpreted the reasoning of Opinion 2/13 as reflecting a kind of "jealous exclusivism." (Gaillard, 2018) of the Union's institutions, which is not justified in the matter under discussion.

The primary importance attributed to the right to education stems not only from the domestic law of the Member States but also from Article 14 of the CFREU, which governs the right of every person to education, vocational training, and continuing education. The text is inspired by Article 2 of Protocol No. 1 to the ECHR, although it introduces certain additional substantive elements, such as the principle of free compulsory education. Academic freedom, manifested through the right to establish educational institutions (public or private), is understood as part of the freedom to

conduct a business activity (Article 16 CFREU), although its exercise is limited by respect for democratic principles and practices established under national legislation. At the same time, the State has the obligation to recognize the right of parents to ensure the education of their children in accordance with their own religious, philosophical, and pedagogical convictions

The expansion of the scope of the principle of non-discrimination

Benefiting from explicit recognition under Article 14 of the ECHR, through EU law (both primary and secondary), as well as broad judicial recognition and extensive doctrinal debate, the principle of non-discrimination has increasingly asserted its consolidated status in recent decades. The early application of the notion of non-discrimination concerned equal treatment between economic operators who (i) should be treated equally when in comparable situations, or (ii) when in different situations, should not be subjected by Union law to identical treatment, except where such differentiation is objectively justified. Over time, the scope of the principle of non-discrimination has evolved from the rule of equal treatment applied in relations between economic actors to employment relationships, where it has been generously extended (Orga-Dumitriu, 2015). Well-informed doctrinal voices have identified an expansion of the scope of the principle of non-discrimination beyond employment relations, namely

(i) through provisions of primary law (Article 20 TFEU) and the use of the concept of citizenship for the guarantee of free movement (Aniței, 2018; Safta, 2017) under the conditions of Article 21 TFEU and

(ii) through secondary law provisions applicable to relations between consumers and professionals (Reich, 2014).

More recently, in 2019, the Legal Resources Centre launched the study "Non-Discrimination in Education," which examines the current state of practices within school environments from the perspective of non-discrimination (Menz & Mandl, 2024) and equal opportunities in the Romanian education system, specifically in school programs and textbooks, as well as in the initial and ongoing training of teaching staff, with particular regard to gender equality, LGBT youth, and Roma children (Gramma et al., 2013) and young people (David et al., 2020). In this context, a comprehensive understanding of the theoretical and practical implications of the prohibition of discrimination in access to education becomes an essential reference point. This is especially the case given that the subject has remained only partially addressed within the sociology of education and as a result of its denial by some researchers (Dhume & Cognet, 2020).

Prohibition of discrimination in access to education

UN international instruments

The pluralism of normative sources regarding equality of treatment in education has not prevented the proliferation of concrete situations in which discrimination occurs on the grounds of race, ethnic origin, religious affiliation, or gender. At the legislative level, instruments adopted under the aegis of the United Nations coexist with those established by the Council of Europe and the European Union.

The conceptual framework built around the right to education and the principle of non-discrimination was later enriched with the meanings derived from the UNESCO Convention against Discrimination in Education, adopted in Paris on December 14, 1960 (in force since May 22, 1962, and ratified by Romania in April 1964). According to Article 1 of the Convention, discrimination is defined as "any distinction, exclusion, limitation, or preference which, based on race, color, sex, language, religion, political or other opinion, national or social origin, economic condition, or birth, has the purpose or effect of nullifying or impairing equality of treatment in education." Respecting the primacy of human dignity in the hierarchy of fundamental rights (initially enshrined in the UDHR and reaffirmed with the same top-rank position in the CFREU), discriminatory practices directed against an individual or a group, such as humiliating or offensive treatment, are prohibited.

At the same time, practices of segregation are also prohibited through:

(a) the exclusion of persons or groups from access to various types or levels of education;
(b) limiting the education of a person or group to an inferior level; or
(c) subject to the exceptions detailed in Article 2 of the Convention, the establishment or maintenance of separate educational systems or institutions for persons or groups.

Although an early instrument in the field of prohibiting discrimination in education, the vision and the entire legal regime established by this Convention must be understood in light of the proper articulation between the content of the rights enshrined and the geopolitical dynamics. The integrationist paradigm reflected in the text of the convention is closely linked to the fear of secession in territories inhabited by minorities (Thornberry, 2016). In the context of the Syrian civil war, recent empirical analyses have highlighted the post-migration difficulties experienced by Syrian students due to language barriers in Turkey (van Esveld, 2023). Recent reports highlight that arbitrary age-assessment practices are among

the challenges encountered by children within migration contexts (Binford et al., 2023). However, the temporary protection status under which they were placed did not prevent the emergence of a sense of non-belonging rooted in their foreign identity (Saka & Hannan, 2025). The personal experiences and individual realities (Dagorn and Rui, 2013) lived by the children of immigrants often prove to be different from the public agenda of institutional and political actors, even when a series of inclusion-oriented measures have been set in motion. Although the inequalities arising from migrant status have traditionally been viewed as the result of "cultural discontinuities" between students from immigrant families and the school system itself, the interpretation of PISA statistics for France has shown that there is a link between the increasing school segregation of migrants and the evolution of inequalities in academic performance (Felouzis et al., 2015). Moreover, other works demonstrate a particular dynamic of modern education in which the values that shape the identity of schools and teachers' attitudes toward inclusive education may act "either as enabling factors or as barriers" (Arranz-Sánchez and Espada-Chavarría, 2025).

The regulation of self-segregation, which is permitted only under the strict conditions provided in Article 5(1)(c), reflects this realistic understanding of the primary role that language and religion play in affirming ethnic identity, as well as the hidden dangers that ethnic self-segregation may pose to national sovereignty. Thus, the right of national minorities to conduct their own educational activities and to use or teach their own language is recognized, provided that such rights "are not exercised in a manner that prevents members of these minorities from understanding the culture and language of the community as a whole, participating in its activities, or undermining national sovereignty." Without explicitly mentioning the criterion of the best interests of the child, the State's supervision over parental choices must ensure that the right to education of minors is not impaired.

The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), adopted by the UN General Assembly on 21 December 1965 (in force from 1969 and ratified by Romania in July 1970), prohibits discrimination, segregation, and apartheid (without exception) in the exercise of a wide range of civil, economic, social, and cultural rights, including the right to education and vocational training - Article 5(e)(v). Although the European Court of Human Rights (ECtHR) does not appear to have granted a central role to the tests established by ICERD or CADE, these international instruments remain valuable and relevant sources as Farkas & Gergely (2020) that contribute to the structure and coherence of legal thought in this area.

Moreover, Article 18(4) of the ICCPR establishes the obligation of the States to respect "the freedom of parents and, where applicable, legal guardians to ensure the religious and moral education of their children in accordance with their own convictions." Innovatively, this instrument introduces in Article 24(1) a guarantee of judicial protection for the child against any form of discrimination, expressly recognizing "the right to the protective measures required by his or her status as a minor, from his or her family, society, and the State." Similarly, Article 2(2) of the ICESCR prohibits discrimination on the grounds of race or ethnic origin. The refusal to educate a Sikh boy who wore his traditional turban (who was not permitted to enter Park Grove School in Birmingham) was considered direct discrimination on the basis of ethnic origin in the case *Mandla and another v. Dowell Lee*. In a similar case, Bikramjit Singh was initially excluded from class (forced to learn in the school canteen) and later expelled for refusing to remove a small Sikh turban, the keski. Unlike *Mandla*, which relied on the United Kingdom's racial equality legislation, Singh invoked a violation of his religious freedom protected under Article 18 of the ICCPR. Consequently, the UN Human Rights Committee condemned France on this basis, rather than on grounds of ethnic discrimination (Farkas & Gergely, 2020). In contrast, in a series of similar cases -*Ranjit Singh v. France*, *Jasvir Singh v. France*, *Gamaleddyn v. France*, and *Ghazal v. France*, the ECtHR dismissed the applicants' claims as inadmissible, reiterating the reasoning applied in the earlier judgments *Doğru v. France* and *Kervanci v. France*, concerning students who had been prohibited from wearing a headscarf during physical education classes (Strasbourg Observers, 2013). The Court's decisions were grounded not only in the constitutional principle of secularism but also in the principles of respect for pluralism and the freedom of others. It was emphasized that national authorities must ensure that "the manifestation of students' religious convictions within the school does not take on the character of a conspicuous act which would constitute a source of pressure and exclusion." (ECtHR, *Dogru v. France*, 2008).

Racial discrimination, however, was found in the case of *R (E) v Jewish Free School Governing Body*, in which the Supreme Court of the United Kingdom was asked to consider the policy of the Jewish Free School of denying access to education to individuals deemed to belong to a different religion. The key issue was whether the test based on maternal descent - under which the Chief Rabbi recognized applicants as Jewish and on which school admission depended, constituted a test based on ethnic origin and thus amounted to racial discrimination. In this case, the claimant's Jewish status had not been recognized by the school because his mother had converted to Judaism under the auspices of the Masorti movement, in a ritual deemed by the Chief Rabbi as insufficient to satisfy the matrilineal test.

By a narrow majority of five to four, the Court held that the educational institution, although not promoting racism, had engaged in direct racial discrimination, thereby violating equal opportunities in access to education.

The Convention on the Rights of the Child, adopted by the United Nations General Assembly on 20 November 1989, marks the transition to the second generation of normative instruments in the field of the right to education under the UN framework, establishing in Article 28(1)(a) that primary education is compulsory and free.

The right to education and non-discrimination under the ECHR

The principle of non-discrimination enjoys a well-established status within the ECHR, which provides in Article 14 that "the enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status." In addition, Article 2 of Protocol No. 1 stipulates that "No person shall be deprived of the right to education (…)". Beyond the scientific and methodological biases and self-censorship regarding the subject of school discrimination (Dhume, 2014), judicial case law provides us with the necessary data, even though these cases are rather exceptions to the general context in which educational policies and activities take place. The first judgment in which the Strasbourg Court found indirect racial discrimination in access to education and a violation of Article 14 of the ECHR was in *D.H. and Others v. the Czech Republic* (2007). This case arose from the practice of placing Roma children in special schools for children with intellectual disabilities, which followed a much simplified curriculum compared to regular schools. The judgment became a landmark reference for subsequent cases. According to the Court's reasoning, the best interests of the child were considered equivalent to the right to equal treatment, which prevailed over parental choice - particularly because the choice was not based on informed consent (ECtHR, *D.H. and others* v. *Czech Republic,* 2007*)*. Segregation of Roma children was found at the classroom level in *Sampanis and Others v. Greece* (2008), concerning the restriction of school enrollment for Roma children who could not be admitted until they were assigned to classrooms located in an annex to the main building of the primary school. The judgment in *Oršuš and Others v. Croatia* (2010), which censured as discriminatory the placement of Roma children in classes composed solely of Roma students for extended periods (sometimes throughout the entire primary cycle), complements this cascading series of rulings.

The Court has systematically promoted the classic leitmotif in discrimination law - the unequal treatment of individuals in comparable situations, and, equally, of those under different circumstances - and it can be said that it has supported this anti-discrimination shift by protecting individual rights where states have failed to do so. However, some critical voices have pointed out that, by recognizing indirect discrimination or or assessing compliance with proportionality criteria the Strasbourg Court's approach may diverge from the stricter regime of UN international conventions (CRC and ICERD), which categorically prohibit segregation. This divergence risks "undermining the understanding of segregation as structural and/or covert direct discrimination, where concealment techniques serve to hide the intention to separate students belonging to racial minorities." (Farkas & Gergely, 2020). Beyond these nuances, the Court's contribution to prohibiting discrimination in education remains of paramount importance, including in terms of expanding the grounds on which differential treatment in comparable situations cannot be justified. In the spirit of an inclusive educational system, in *Çam v. Turkey* (ECtHR, 2016), the Court was called upon to rule on discrimination against persons with disabilities. In this case, the Turkish Academy of Music rejected the enrollment application of a blind student on the grounds that it lacked the necessary infrastructure to admit students with such a disability. The behavior of the national authorities, who failed to provide convincing explanations as to why the applicant's blindness could have impeded her access to musical education and did not consider physical adaptations to meet the specific educational needs arising from her disability (ECtHR, 2016) was found to constitute a violation of Article 14 of the Convention.

A favorable ruling was also issued in the case of a 13-year-old girl diagnosed with autism, who had not received specialized support during the first two years of primary school. In *G.L. v. Italy*, the Court considered this to constitute serious discrimination, given the fundamental importance of primary education (ECtHR, 2020). The Court interpreted Article 14 of the ECHR in light of the United Nations Convention on the Rights of Persons with Disabilities and found that the national authorities had failed to identify the applicant's actual needs and to implement feasible measures that would allow her to attend primary school under conditions as equivalent as possible to those enjoyed by other children, rejecting the argument of insufficient financial resources. A balanced and realistic approach can be observed in *T.H. v. Bulgaria* (ECtHR, 2023), where the Court addressed the antisocial behavior of a child suffering from hyperkinetic disorder with attention deficit. Although the school, through its representatives, implemented a

series of reasonable accommodations, the nature of the applicant's impairments caused him to behave in a manner that had an immediate detrimental effect on the safety and well-being of other students and on the school's ability to provide effective education (ECtHR, 2023). The Court held that Article 14 of the ECHR does not require all possible adjustments to mitigate disparities resulting from a person's disability, regardless of the costs or practical considerations involved, and unanimously, it was found that there had been no violation of Article 14 of the Convention. In the context of online education during the COVID-19 pandemic, the influence of new technologies on learning outcomes - particularly with reference to children diagnosed with ADHD, has increasingly drawn the attention of specialists, who have proposed remedial psychoeducational techniques to compensate for the resulting difficulties in comprehension and memory (Chiorean et al., 2024).

Recent studies also explore the social discrimination faced by individuals with facial disfigurements (who number no less than 10 million in Europe!) and the ways in which their stigmatization is manifested through barriers to employment or negative perception stereotypes, advocating for 'facial equality' and the specific training of professionals who interact with them (Popovici & Iosif, 2025). It should not be overlooked that attitudes toward persons with disabilities are influenced not only by social or medical patterns but also by religious ones, with inclusive practices being shaped by these patterns (Roşu et al., 2025; Sandu et al., 2020). No less important, the representation of disability in the media during the Paralympic Games provides surprising data on discrimination not only between athletes with and without disabilities but also between genders among the participating nations (Chrif et al., 2024).

The Court's innovative vision also extends to an expansive interpretation of the scope of Article 14, identifying new grounds of discrimination, such as genetic characteristics or immigrant status. In *Moraru v. Romania* (ECtHR, 2022), it was held that the refusal to allow a woman to take the entrance exam for Military Medicine because her height and weight were below the limits set by an order of the Minister of National Defense was not objectively and reasonably justified (ECtHR, 2022). In an appropriate understanding of the dynamic mission of secondary education in promoting social integration and supporting the professional inclusion of citizens from other member states, in *Ponomaryovi v. Bulgaria* (ECtHR, 2011), the Court found that the obligation imposed on foreign students without permanent residence permits to pay tuition fees for secondary education constituted a violation of Article 14 of the Convention. The Bulgarian

authorities' arguments regarding control of illegal immigration were dismissed, and the Court ordered compensation for the moral damage suffered by the applicants.

Instruments adopted at the EU level

Although Article 6(1) of the TFEU grants Member States broad competence in the field of education, with the Union being called upon to carry out "supporting, coordinating or complementary actions," European policymakers integrated anti-discrimination rules in education into the legislative agenda relatively early. At the EU level, through Directive 2000/43/EC minimum requirements were established for the Member States, which are obliged to lay down effective and proportionate sanctions against discrimination. The scope of the Directive is not limited to access to employment, social protection and security, healthcare, and access to goods and services (including housing); according to Article 3(1)(g) of the Directive, it also covers education, prohibiting direct and indirect discrimination as well as harassment. All types of education are covered, from pre-school to higher, technical, and vocational education - as explicitly mentioned in Article 3(1)(b) -whether public or private, religious or secular. In the formulation enshrined in the CFREU, the constitutional alliance between Article 14 (right to education) and Article 21 (non-discrimination), Article 22 (cultural, linguistic, and religious diversity), and Article 24 (children's rights) reflects an advanced stage in the affirmation of the principle of non-discrimination in education. Recommendation (EU) 2021/1004 establishing a European Child Guarantee complements the Union's strategy to promote equal opportunities and reduce social exclusion among children in vulnerable situations. As a novel approach, neuroinclusion which combines concepts from neuroscience with the foundations of inclusive education (although only partially explored) is beginning to establish itself in European pedagogy as a method for integrating neurodivergent children into mainstream school environments (Shelever et al., 2025).

Unlike the ECtHR case law on education before the CJEU, no actions for failure to fulfill obligations have yet been initiated on the grounds of the segregation of Roma children in Eastern European states. This may be, at least in part, an immediate consequence of the fact that the Member States have retained their traditional competence in the field of education. In this context, ECtHR rulings provide significant guidance for the interpretation of the Directive on equal treatment. This may also explain why it is said that the Strasbourg Court exerts "external influence" on the interpretation of EU law, without directly interpreting EU law itself

(Gordillo, 2012). On another note, it should not be overlooked that, pursuant to Article 52(3) of the Charter, the meaning and scope of the fundamental rights and freedoms guaranteed by the ECHR represent a minimum level of protection, and EU law may provide a higher level of protection. It remains to be seen to what extent the relatively lenient interpretations of ethnic origin discrimination established by the CJEU in the *CHEZ* case (concerning disadvantaged access to electricity suffered by a Bulgarian citizen who owned a small business in a neighborhood predominantly inhabited by Roma) will be applied in litigation concerning discrimination in education. Notably, this ruling recognized perception-based as well as "associative" discrimination (Lahuerta, 2016), in the context where the discriminatory treatment to which Ms. Nikolova was subjected was a direct consequence of her mere geographic belonging to the community. Here we also find a concretization of what some sociologists more recently consider territorial discrimination, manifested through the underfunding of authorities and public services in a given area (Ben Ayed, 2023; Kirszbaum, 2016). Recent empirical studies have noted that the shortage of material and human resources in schools located in more disadvantaged areas, such as the Seine-Saint-Denis department in Paris, undermines their capacity to integrate students in specific situations - non-French speakers or those with disabilities (Denis et al., 2024).

Conclusions

The normative diversity of instruments designed to guarantee non-discrimination in access to education and vocational training reflects the recognition of the priority that education holds in modern society, marked by economic inequalities, geopolitical crises, and excessive digitalization. According to UNESCO, addressing "racial discrimination, economic exclusion, rising poverty, and the negative impact of the privatization of educational services" constitutes a fundamental concern for maintaining education as a "common good" (UNESCO, 2006) in this turbulent world. The contribution of the Strasbourg Court, which has ensured effective judicial protection of the right to education through the guarantee of equal treatment, remains a benchmark for promoting an inclusive European educational and social space grounded in fundamental rights. Although the CJEU has not yet ruled directly on non-discrimination in access to education, through its interpretations it has contributed to the expansion of the scope of the non-discrimination principle.

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