



European network of legal experts in gender equality and non-discrimination

FLASH REPORT

Country:	North Macedonia
Title:	Anti-discrimination Law (re)adopted by Parliament, following annulment by the Constitutional Court
Date:	1 December 2020
Expert:	Biljana Kotevska
Update of flash report:	North Macedonia - The Constitutional Court Repealed the 2019 Anti-Discrimination Law (104 KB)
Context	
Issue at stake:	Law on Prevention and Protection against Discrimination adopted following repeal by the Constitutional Court
Grounds of discrimination:	All grounds
Field of application:	All fields
Source:	National legislation
Applicable law:	Law on Prevention and Protection against Discrimination (2010), Law on Prevention and Protection against Discrimination (2019) and Law on Prevention and Protection against Discrimination (2020)

Content

Law development: On 14 May 2020, the Constitutional Court annulled the Law on Prevention and Protection against Discrimination (ADL). The Court found that the law had not been adopted with the appropriate majority vote required by the Constitution, effectively leaving the country without a comprehensive ADL. This decision took place at a time when the Parliament had already dissolved for pre-term elections, meaning the law could be re-adopted only following the elections.

During the pre-election campaign, 17 political parties signed a pre-election political declaration initiated by CSOs, pledging to adopt the ADL again immediately after the Parliament was constituted.¹ Within a month after the Parliament was constituted and the new Government was elected, the competent ministry – the Ministry of Labour and Social Policy – passed on the text, as annulled by the Constitutional Court, to the Government, but with one amendment. The amendment was proposed by CSOs and it pertained to the parliamentary procedure for appointment of the members of the equality body – Commission for Prevention and Protection against Discrimination (CPPD). The CSOs proposed that the model procedure that was used in 2019 for the appointment of the members of the State Commission against Corruption is adopted for the CPPD as well. The proposed amendment (Article 18) included a fully transparent and public appointment process with participation from CSO representatives during the complete procedure. Yet,

¹ MERC, '17 политички партии ја потпишаа Декларацијата за приоритетно донесување на законот за спречување и заштита од дискриминација' [17 political parties signed the Declaration on for Priority Adoption of the Law for Prevention and Protection against Discrimination], MK - EU Resource Centre, <http://www.merc.org.mk/aktivnost/62/17-politichki-partii-ja-potpishaa-deklaracijata-za-prioritetno-donesuvanje-na-zakonot-za-sprechuvanje-i-zashtita-od-diskriminacija>.

the government rejected this amendment, stating that the law was already well in line with international standards and had been annulled by the Constitutional Court only because of a formal condition, thus there was no need to amend Article 18.

On 28 October 2020, the Parliament adopted the text of the ADL, as annulled by the Constitutional Court earlier this year. The law was published in the Official Gazette on 30 October 2020, thus the deadlines of the transitory provisions started running. This includes the timeframe for the selection and appointment of the members of the new equality body – CPPD.²

Key points of analysis: The rejection of the amendment proposed by CSOs sends a worrying signal on the intentions of the parties regarding the appointment of members' process. CSOs have already publicly expressed worries that this might be signalling intent to appoint persons with questionable independence from the political parties,³ as was the case with the previous two compositions of the equality body.

Internet link source: Law on Prevention and Protection against Discrimination [Закон за спречување и заштита од дискриминација], *Official Gazette of the Republic of North Macedonia*, No. 258/2020 (30.10.2020).

² There is currently no functioning equality body in the country.

³ Libertas, 'Мрежа за заштита од дискриминација: Комисијата за спречување и заштита од дискриминација останува да се избира по партиски договор' [The Network for Protection against Discrimination: the Commission for Prevention and Protection against Discrimination Remains Subject to a Political Party Deal], *Libertas*, <https://libertas.mk/mrezha-za-zashtita-od-diskriminaci-a-komisi-ata-za-sprechuva-e-i-zashtita-od-diskriminaci-a-ostanuva-da-se-izbira-po-pat-na-partiski-dogovor/>.