



**VILNIUS GEDIMINAS  
TECHNICAL  
UNIVERSITY  
(VILNIUS TECH)**

# Lithuania is a country of northern Europe

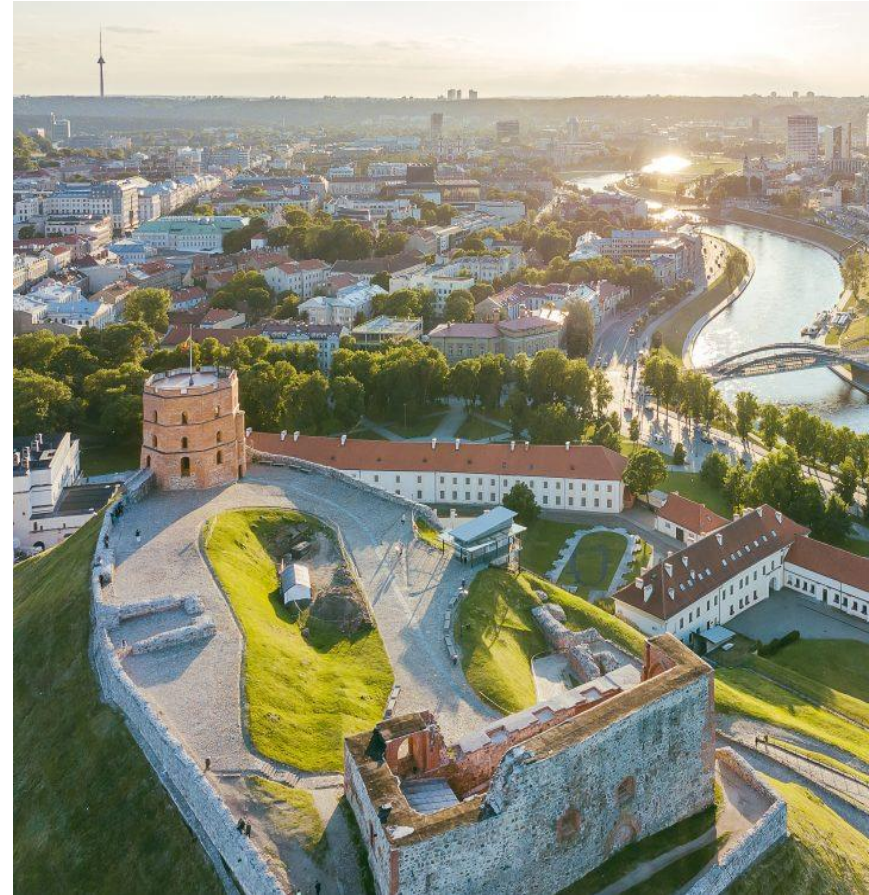


THE CURRENT POPULATION OF LITHUANIA ~2 800 000  
LITHUANIAN is the official language



# VILNIUS

- ~550 000 INHABITANTS
- 402 SQ. KM (46% OF GREEN SPACE)
- OLD TOWN - UNESCO WORLD HERITAGE SITE
- AFFORDABLE LIVING QUALITY
- CLEAN TAP WATER
- 80% OF THE YOUTH – ENGLISH SPEAKERS
- ONE OF THE FEW EUROPEAN CAPITAL CITIES WHERE HOT AIR BALLOONS ARE ALLOWED TO FLY



# 10 FACULTIES OF VILNIUS TECH

- ANTANAS GUSTAITIS' AVIATION INSTITUTE
- ARCHITECTURE
- BUSINESS MANAGEMENT
- CIVIL ENGINEERING
- CREATIVE INDUSTRIES
- ELECTRONICS
- ENVIRONMENTAL ENGINEERING
- FUNDAMENTAL SCIENCES (ICT & Computer Science)
- MECHANICS
- TRANSPORT ENGINEERING

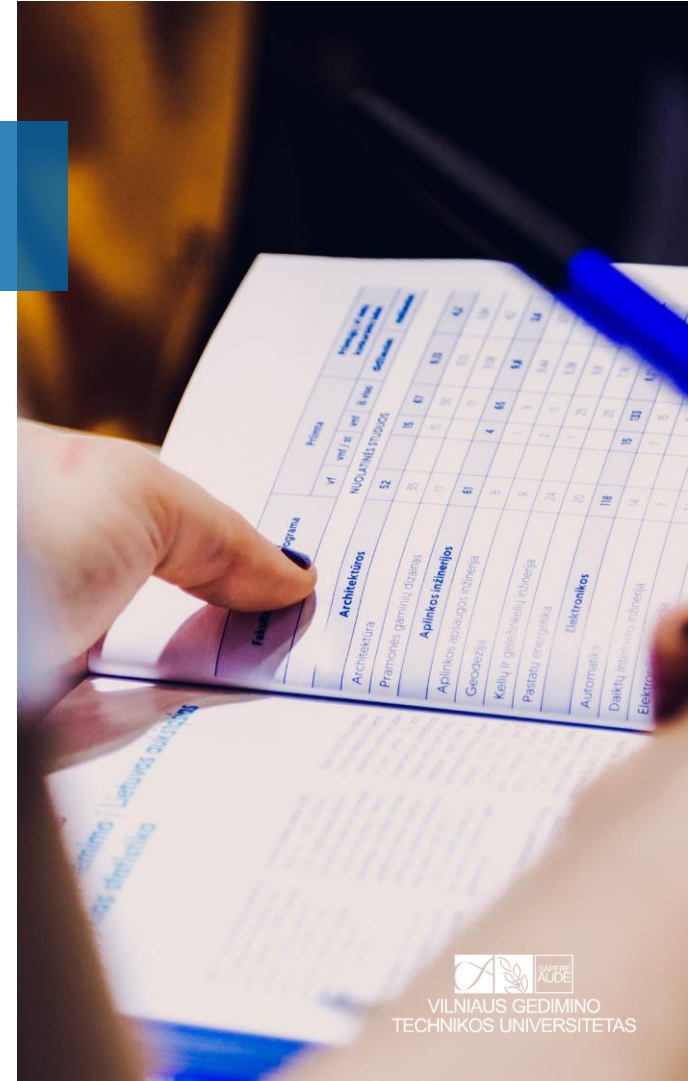
VILNIUS GEDIMINAS TECHNICAL UNIVERSITY (VILNIUS TECH)



# BUSINESS MANAGEMENT

## 5 DEPARTMENTS:

- Department of Business Technologies and Entrepreneurship
- Department of Economics Engineering
- Department of Financial Engineering
- Department of Management
- Department of Law



Raimonda Bublienė, PhD

# EU Regulations on Equal Treatment: Examining Multiple Discrimination in Employment

# INTRODUCTORY REMARKS

- Analyses European Union Anti-discrimination Law development;
- Discusses the concept of multiple discrimination;
- Introduces cases of equal treatment of employees during employment at private companies.



# LEGAL BASIS

- Treaty on the Functioning of the European Union (TEFU) (2012)
- The Racial Equality Directive (2000)
- Employment Equality Directive (2000)



# DEVELOPING ANTI-DISCRIMINATION LAW IN EU

Treaty on the Functioning of the European Union (2012) current Article 157 (1) (2)

- “Each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied.
- For the purpose of this Article, ‘pay’ means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer.
- Equal pay without discrimination based on sex means: (a) that pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement; (b) that pay for work at time rates shall be the same for the same job”.

# DEVELOPING ANTI-DISCRIMINATION LAW IN EU

- The Employment Equality Directive covers the protection given to the field of employment and occupation as well as vocational training on the grounds of age, religion or belief, sexual orientation and disability, prohibits indirect and direct discrimination as well as harassment and instructions to discriminate, it is applied only in the sphere of employment.
- The Racial Equality Directive requires to prohibit: direct and indirect discrimination, harassment and instructions to discriminate on the grounds of ethnic or racial origin. That prohibition of discrimination includes employment, self-employment, self-employment and occupation, vocational training, social protection covers social security and healthcare, education and access to and supply of goods and services available to the public including housing.

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# EU ANTI-DISCRIMINATION LAW

Fields	Grounds	Race & Ethnic Origin	Gender	Religion or Belief	Age	Disability	Sexual orientation
Employment		yes	yes	yes	yes	yes	yes
Education		yes	no	no	no	no	no
Access to Goods and Services Available to the Public, including Housing		yes	yes	no	no	no	no
Social Protection		yes	yes	no	no	no	no
Social Advantages		yes	no	no	no	no	no

# DEVELOPING ANTI-DISCRIMINATION LAW IN EUROPE

- On the other hand, the protection provided by EU legislation against discrimination on the basis of race, ethnicity and gender is better than analogous protection on the grounds of sexual orientation, religious beliefs, age and disability.
- By harmonizing the material scopes of application of different directives, the principle of equal treatment of persons, regardless of their religion, belief, age, or sexual orientation, would be implemented under the Equal Treatment Directive (PROPOSAL 2008)

# MULTIPLE DISCRIMINATION

- The term multiple discrimination is used in legal literature to describe the phenomenon when individuals are discriminated against for more than one reason, i.e., on more than one ground;
- When discrimination occurs due to the interaction of two or more discriminatory grounds, where the consequences of the different grounds of discrimination cannot be distinguished, such phenomenon is considered to be multiple intersectional discrimination;
- An example of multiple intersectional discrimination can be a young woman who faces discriminatory attitudes from her employer. If an employer discriminates against a young woman because of her desire to have children and go on maternity leave, this is considered multiple intersectional discrimination because this woman is both young and female, in which case discrimination is not only based on age (this problem does not affect all young people) but also on gender (this problem does not affect all women).

# MULTIPLE DISCRIMINATION

Multiple discrimination is a common and widespread phenomenon, because there are various perceptual stereotypes related to personal qualities or characteristics such:

- religion,
- ethnicity,
- migrant status,
- culture,
- age,
- gender, or a combination of these characteristics.

Multiple discrimination can be experienced by various social groups or individuals.



# MULTIPLE DISCRIMINATION

Certain stereotypes concerning, for example:

- appearance, particularly prejudice against Muslim women who wear headscarves, have been identified in various Member States;
- stereotypes related to disability and the belief that disability can be feigned or that older people are only pretending to be ill;
- cultural stereotypes and the perception that AIDS are common among ethnic or sexual minorities.

# MULTIPLE DISCRIMINATION

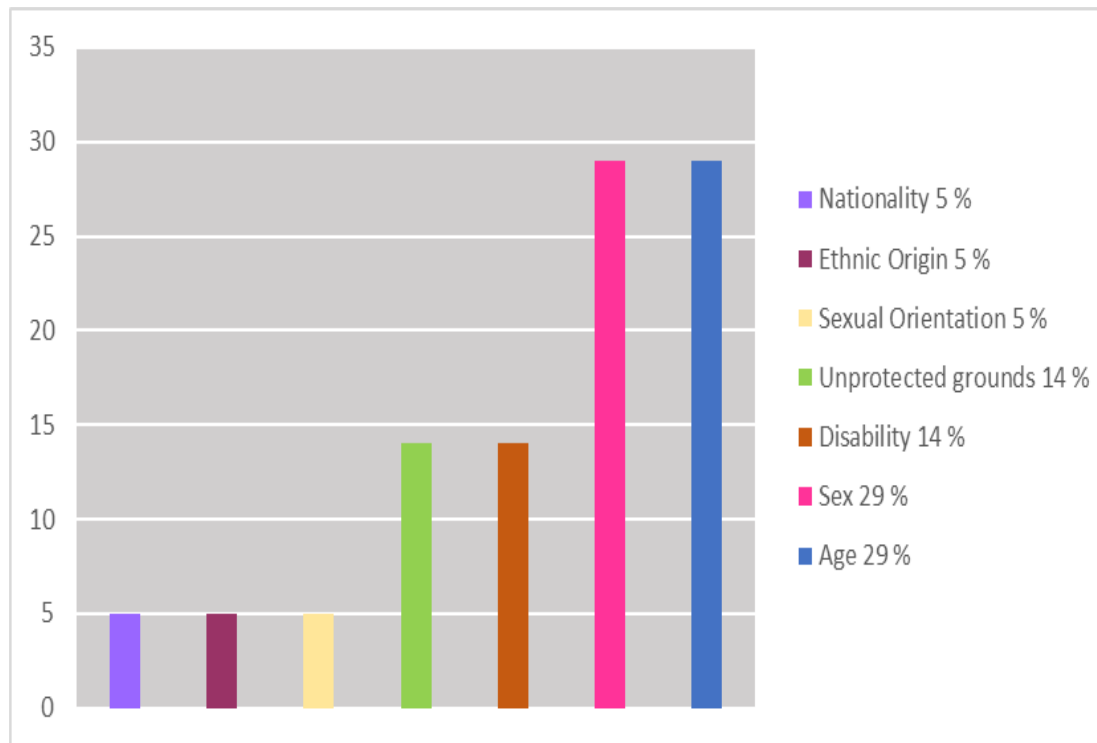
- The principal of non-discrimination itself has been consolidated on the national and international level, but in the social context of the society the conception of discrimination itself has been expanded, the new forms of discrimination have appeared, namely multiple discrimination has originated as one of them.
- However, the phenomenon of multiple discrimination has been specifically recognized neither in the EU nor in the legal acts among the majority of the Member States.

# EU MEMBER STATES

- Austria, Italy, Spain, France, Belgium, Sweden, Poland, Latvia and the Netherlands are among the more advanced EU Member States in the context of legal regulation of multiple discrimination; this category also includes the former EU Member State - the United Kingdom.
- The national legislations of Austria, Italy, Spain and the United Kingdom enshrine the prohibition of multiple discrimination, however the definition of multiple discrimination is too narrow, i.e. it does not include multiple intersectional discrimination, while national courts examine situations only through the prism of multiple compound discrimination.
- The remaining specified EU Member States did not establish the prohibition of multiple discrimination in their legislation, however appropriate case law is being formed and national courts are examining cases on multiple grounds of discrimination, but, once again, without assessing situations through the prism of multiple intersectional discrimination.

# MULTIPLE DISCRIMINATION SIGNS AT THE CASE LAW COURT OF JUSTICE OF THE EUROPEAN UNION

Grounds invoked from 10 cases brought on multiple grounds from 2007 to 2017



# TWO CASES AT COURT OF JUSTICE OF THE EUROPEAN UNION

- Discrimination on the religion ground from the side of private employer Achbita v. G4S Secure Solutions NV and Bougnaoui and AADD v. Micropole Universe SA.
- Two women Achbita from Belgium and Bougnaoui from France were dismissed for wearing the hijab at work and the CJEU now has to address the issue of reasonable accommodation of religious diversity at the workplace.
- In both cases, the hijab was in conflict with the private companies' neutrality policies, but the important difference between that Bougnaoui had always worn the hijab and was only required not to wear it in the presence of clients and Achbita started to wear hijab after having been employed for around three years in the company and was not allowed to wear it at all.

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- Two women Achbita from Belgium and Bougnaoui from France were dismissed for wearing the Muslim headscarf at work and the CJEU now has to address the issue of reasonable accommodation of religious diversity at the workplace.
- In both cases, the Muslim headscarf was in conflict with the private companies' neutrality policies, but the important difference between that Bougnaoui had always worn the Muslim scarf and was only required not to wear it in the presence of clients and Achbita started to wear Muslim headscarf after having been employed for around three years in the company and was not allowed to wear it at all.

The conclusion presented by Advocate General Kokott (2016) stated that:

- Ms. Achbita, like some other Muslims, wore a headscarf for religious reasons and there was no reason to question her religious motivation;
- She considered that taking into consideration the case law of the ECtHR related to Article 9 of the ECHR and the practice of the majority of national courts and institutions;
- The Court of Justice should also regard that as sufficient interaction with religion, and therefore the examined case fell within the material scope of the prohibition of discrimination on grounds of religion laid down in EU law.



Advocate General Eleanor Sharpston (2016), in a similar Bougnaoui case reached a different conclusion from Advocate General Juliane Kokott.

- She proposed ‘the rule in the place of work of a company which prohibits employees of a company from wearing religious signs or clothing when communicating with customers of a company and shall be deemed to be direct discrimination on grounds of religion or belief and not subject to derogations from the prohibition of direct discrimination on grounds of religion or belief’.
- She considered that such discrimination could not be justified or considered to be in the employer's legitimate interest or proportionate purpose.

# MULTIPLE INTERSECTIONAL DISCRIMINATION

In the cases discussed above, it is important to note that potential discrimination against Muslim women is appreciated taking into consideration the intersection of three grounds:

- religion and belief,
- gender;
- ethnic origin or race.

We can see cases of discrimination undoubtedly related to the features of Islamophobia, which exhibits hostility to religion and culture. At the same time, there is gender discrimination as the Islamic headscarf is exclusively associated with a Muslim woman

- At the level of international law, intersectionality is officially recognized by the Convention on the Elimination of All Forms of Discrimination against Women Committee as a pertinent concept for understanding the scope of State Parties' obligation to eliminate discrimination.
- The Committee stated that, States parties must legally recognize and prohibit such intersecting forms of discrimination and their compounded negative impact on the women concerned.
- United Nations Human Rights Committee in the similar case regarding refusal to allow a worker in a childcare center to wear an Islamic headscarf (F. A. v. France 2018). Committee found a violation of the right to religion and intersectional discrimination on the grounds of gender and religion.

# CONSTITUTIONAL COURT OF THE REPUBLIC OF LITHUANIA



The jurisprudence of the Constitutional Court of the Republic of Lithuania has valuable insights related to discrimination on multiple grounds:

- manifestations of discrimination were assessed on more than one ground;
- and at the same time a clear initiative was shown to examine discrimination by distinguishing multiple grounds.

In order to ensure the principle of equality and properly implement the international agreements, the legislator of Lithuania must include the prohibition of multiple discrimination in the national legislation and define its concept.

- Despite the efforts of the European Commission, the prohibition of multiple discrimination has not yet been established in EU anti-discrimination law.
- Protection against discrimination varies based on the areas of application of the EU anti-discrimination law; greatest protection is applied to race and ethnicity, which eliminates the possibility of assessing discrimination in certain areas (e.g., education, social security, social benefits) on more than one ground.
- The EU Equal Treatment Directive should enshrine the prohibition of multiple discrimination and define the concepts of multiple and multiple intersectional discrimination.
- Legal regulation of multiple discrimination would create prerequisites for properly ensuring the principle of equality, since it would oblige the CJEU to examine cases in the context of multiple discrimination.

- Multiple discrimination could therefore be defined as any form of discrimination resulting from any combination of two or more multiple grounds, including cases of multiple intersectional discrimination, where assessment of each separate ground would not result in further discrimination of a person.
- The practice of UN institutions should be treated as the most advanced in the context of ensuring the principle of equality, since they pay particular attention to the recognition of multiple discrimination, identification of grounds of discrimination, their comparison, and a composite, comprehensive analysis.
- The more discrimination grounds are identified, the more precisely the harm of discrimination can be assessed. Multiple discrimination typically increases the vulnerability of certain social groups, which reflects the more harmful effects of such discrimination. Therefore, multiple discrimination should essentially be considered a more serious offense than discrimination on one ground alone.



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**THANK YOU**

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