

## **DELEGATION OF ROMANIA**

### **OSCE CONFERENCE ON TOLERANCE AND THE FIGHT AGAINST RACISM, XENOPHOBIA AND DISCRIMINATION** **(Brussels, 13-14 September 2004)**

#### **THE ROMANIAN NATIONAL ACTION PLAN FOR COMBATING DISCRIMINATION (NAPCD)**

##### **I. The legislative and institutional framework**

In the new social context, when the human rights protection is more important than ever, the efforts should be targeted on the protection of equality between citizens and non discrimination.

The right to equal treatment and the obligation for each state to ensure the enforcement for a legal framework on preventing and combating discrimination are universally provided by the international documents like: The Convention for the Protection of Human Rights and Fundamental Freedoms (1950), The Universal Declaration of Human Rights (1948), The Framework Convention on the Protection of National Minorities (1995), The UN Convention on the Elimination of All Forms of Racial Discrimination (1965), The UN Convention on the Elimination of All Discrimination against Women (1979), The International Covenant on Civil and Political Rights (1966), and Economic, Social and Cultural Rights (1966).

The member states of the European Union adopted the Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, and Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation. These documents represent the European legal framework on the protection of persons when these are discrimination victims.

In the last years, Romania made some significant efforts in order to create the legislative framework harmonized with the two European Directives, the “acquis communautaire” in the field of preventing and combating discrimination. The National Council for Combating Discrimination (NCCD), established by Government Decision no.

1194/2001 on the organization and functioning of the National Council for Combating Discrimination, modified by Government Decision no. 1514/2002, is an institution of the central public administration, specialized body on ascertaining and sanctioning the discrimination deeds. The National Action Plan for Combating Discrimination is based on the Government Ordinance no. 77/2003 on the modification of Government ordinance no. 137/2000 on preventing and sanctioning all forms of discrimination, which is harmonized with the provisions of the two European directives on discrimination. The Government Ordinance no.77/2003 was adopted by Law no. 27/2004.

The Romanian legislative framework, which is the fundament of the National Action Plan for Combating Discrimination, is represented by the Romanian Constitution, the Government Ordinance no. 137/2000 on preventing and sanctioning all forms of discrimination, the Law no. 48/2002 for adopting the Government Ordinance no. 137/2000, The Government Ordinance no. 77/2003 for modifying the Government Ordinance no. 137/2000 on preventing and sanctioning all forms of discrimination, Law no. 27/2004 for adopting the Government Ordinance no. 77/2003, The National Plan for EU Accession – the priority no. 9 Political Criteria for Accession.

The National Council for Combating Discrimination, the main public authority responsible for preventing and sanctioning discrimination deeds, acts in cooperation with other public institutions having sector attributions in this field: The Ministry of Public Administration and Interior; The Ministry of Labor, Social Solidarity and Family; The Ministry of Education and Research; The Ministry of health; The Ministry of Culture and Cults; The Ministry on Justice; The Ministry of European Integration; The Ministry of Foreign Affaires; The National Audio – Visual Council, The National Agency for Sports; The General Secretariat of the Government.

The fields that should be priory protected by law are: the right to personal dignity; free access to education; free access to public services, justice, health, social assistance; free access to goods and services; freedom of movement; free access for housing and accommodation and access to public places; equal rights to economic activities, employment, profession and social security.

The primary actions of the National Council for Combating Discrimination in the field of preventing and combating all forms of discrimination are:

- 1) Implementing the principal of equal treatment and equal chances between all citizens, by putting into force the provisions of the Romanian Constitution and ensuring the implementation of the European Directives 43/2000/CE and 78/2000/CE in the national

legislation, having in view the achievement of a sustainable model in the field of equality and security among all citizens.

- 2) Creating the specific legislative framework as the public policies in this area to fulfil the following conditions: to be fully harmonized with the European standards for accession; to be well known and accessible to all citizens; to be tailor-made to the real problems existing in the Romanian society and not to create any confusions; to encourage and facilitate social communication.

## **II. The Mission of the National Council for Combating Discrimination**

The mission of the National Council for Combating Discrimination is to promote and protect human rights as provided in the anti discrimination legislation.

The role of the National Council for Combating Discrimination is to inform the Romanian society to inform the Romanian society of discrimination, to investigate and sanction the discrimination deeds, contributing to a general social climate of trust and respect in the light of a democratic and European society.

## **III. The scope of the Action Plan**

The scope of the NAPCD is the establishing of the action guidelines for preventing and combating discrimination. Therefore, NCCD proposes:

- 1) the building of an efficient system for preventing of discrimination at national level;
- 2) the adaptation and improvement of the procedures for sanctioning all forms of discrimination;
- 3) the mediation of the conflicts resulting from discrimination deeds;
- 4) the consolidation of the cooperation with civil society, central and local public administration and media.

## **IV. The principles of the Action Plan**

- The principle of integrated policies – consists of an integrated approach of intercessions for preventing, mediation and sanctioning and also on taking into account all forms of discrimination.

- The principle of preventing and combating discrimination – consists in promotion of fundamental rights through informing and educational actions and implementation of the specific legislation.
- The principle of affirmative action and special measure – presupposes the promoting of preferential practices for certain disfavoured persons in order to accelerate the achieving of equality.
- The principle of cooperation – presupposes the development of partnership mechanisms for an active participation of much more social partners from public and private sector in the implementation of specific policies.
- The principle of strategic implementation – consists of an undifferentiated approach of discrimination between disfavoured groups, being conscious of the fact that every disfavoured group has its specific problems.

## **V. General objectives**

- 1) The enforcement of the law and protection of discriminated persons
  - The assurance of the observance of legal anti-discrimination provisions through specific actions of investigating, ascertaining and sanctioning of the discrimination deeds.
  - The establishment, under the law, of special measures and actions for the protection of discriminated persons or disfavoured categories.
  - The monitoring of the observance and promotion of human rights.
  - The building of institutional capacity in order to assure the acces of the citizens to its actions and services.
  - The training for specialists on promotion of equality and non-discrimination
- 2) The improvement of the legal framework
  - The assurance of an adequate legal framework for the fully observance of the human rights and for the implementation of the european provisions in the field of non-discrimination
- 3) The awakening of discrimination issues
  - The improvement of education on promoting the human rights, preventing and combating of discrimination

- The informing of citizens on the existence of discrimination deeds and their negative effects at society
  - The informing of citizens on the rights and obligations deriving from the implementation of equality and non-discrimination principles
  - The facilitation of communication between citizens and the organizations which represent their interests, citizens and public and private institutions, governmental and nongovernmental sectors.
  - The cooperation with civil society for the implementation of NAPCD
- 4) The elaboration of studies and reports
- The scientific analysis of the actual discrimination level and the equal treatment and of the discrimination phenomenon in the romanian cultural and historical context.
  - The annual reporting on the situation of discrimination in Romania.
- 5) The national and international co-operation.
- The coordination of actions for promoting and respecting human rights, equality and non-discrimination
  - The participation in programmes for combating and preventing discrimination, at national and international level.

## **VI. Specific objectives and implementation actions - policies and practices for preventing and combating discrimination**

### **1. Institutional building policy**

On the strength of the internal normative regulations as well as in the spirit of the international documents, The National Council for Combating Discrimination, as a national independent authority, is entitled to take the necessary steps to improve the legal and institutional framework.

- 1) The optimization of the general legal framework taking into account:
  - a) the proposal for projects of normative acts in the field of discrimination acts/deeds;
  - b) the endorse of projects of normative acts having as object the exercise of rights and liberties in conditions of equality and non-discrimination;
- 2) The optimization of the specific legislative framework by:

- a) completing and defining the legal framework concerning the investigation and monitorization of discrimination acts/deeds
- b) elaborating and implementing instructions and procedures in the field of non-discrimination.
- 3) The enforcement of the institutional capacity, benefiting by:
  - a) the developing of a PHARE assistance programme, approved by the European Commission;
  - b) the coordination of the Community Action Programme for Combating Discrimination 2001 – 2006
- 4) The creation of territorial structures, offices for combating and preventing discrimination and elaboration of local strategies.

These technical grounds are the basis of strategical options in medium and long term of the National Council for Combating Discrimination.

- Medium term practices (2003-2004)

- 1) the improvement of working methods of NCCD's personnel, by adapting the working style to citizen's needs and aligning them to the international standards;

- 2) the collaboration with central public administration institutions directly involved in promoting and applying of public policies for disfavoured categories covered by the legislation in the field of discrimination;

- 3) the raising of the professional standard of NCCD's specialised personnel through training courses organised in a specialised centre;

- 4) the completion and improvement of the procedure for solving the complaints, by institutionalizing a regulation based on legal provisions in force and the models prior identified, during the carrying out of investigations.

- Long term practices (2003-2007)

- 1) the consolidation of institution's capacity to react at the new social challenges, on the dimension of preventing and combating discrimination, at the moment of Romania's accession to EU;

- 2) the completion and improvement of NCCD's working apparatus (field specialisations, establishing of territorial offices)

- 3) the continuous perfection of NCCD's staff;

- 4) the promoting of an efficient strategy on identifying financing sources for projects on preventing and combating discrimination;

- 5) the monitoring of the progress in implementation of the principles of equality and non-discrimination;

- 6) the elaboration of reports and studies regarding the activity, the place and the role of the NCCD.

## **2.Prevention policy**

The prevention of discrimination implies coordinated actions on more levels. The prevention policy promoted by the National Council for Combating Discrimination is achieved by implementing area strategies and carrying out programmes covering more intervention areas.

1. The programme of information and documentation in the field of preventing and combating discrimination lies in:
  - a) the building of a data base in the field containing the following categories of information: specialized European institutions, specific international documents, events and activities dedicated to this area, specific scientific reports, specialized publications (printed, on-line), national documents, institutions and national bodies in the field;
  - b) the promotion of international, Romanian, as well as NCCD's documents in the field;
  - c) the elaboration and publication of informative materials (leaflets, brochures, posters) on themes connected to discrimination;
  - d) the monitoring of press;
  - e) the constitution and management of the website of the National Council for Combating Discrimination;
  - f) the acquisition of specialized publications;
  - g) the elaboration of a *Guide on the foundation and functioning of an Information and Documentation Center in the field of non-discrimination and human rights*;
  - h) the foundation and functioning of the Information and Documentation Center in the field of non-discrimination within the NCCD;
  - i) the initiation and development of national campaigns for information of citizens on principles of equality of chances and non-discrimination;
  - j) the dissemination of specific information.
  
2. The programme of education in the field of non-discrimination, of fundamental human rights and liberties lies in:
  - a) the organization of workshops having themes relating to notions, concepts, ideas, theories, practices in the field of non-discrimination and of human rights;
  - b) the development of the present contents aiming at the equality and non-discrimination within the existent school programmes and

- further development of new programmes of optional courses for different studying levels;
- c) the introduction of disciplines for university level in the field of non-discrimination as well as the *Sociology of discrimination, The intercultural and human rights education*;
  - d) the continuation of the courses in methodology for specialized teachers and professors having themes on human rights and non-discrimination;
  - e) the elaboration of a methodology for organizing training courses in the field: the development of curriculum for different group-targets (magistrates, policemen, clerks), the elaboration of materials, methods and providing training courses;
  - f) the carrying out, together with high schools and universities, of projects in the field of non-discrimination by involving pupils and students as well as the teaching staff;
  - g) the foundation and development of students' circles for the study of the discrimination phenomenon within the universities.
3. The programme of social research in the field of non-discrimination lies in:
- a) the sociological analysis of the data base on the grounds of the petitioners' files in which they complained about discrimination deeds;
  - b) the analysis of national and European scientific documents (opinion barometers, research results, studies, analyses, authorized comments) relating to the field;
  - c) the analysis of a data base comprising individual cases, specific matters and perceived discrimination criteria;
  - d) the realization of thematic interviews with experts in the field, representatives of public authorities and civil society;
  - e) the organization of focus groups with different categories of persons, with representatives of non-governmental organizations on themes relating to non-discrimination;
  - f) the development of public opinion polls in the field;
  - g) the publication of the research results (brochures, reviews and reports).
4. The programme of partnership and support of civil society which acts in the field of human rights consists in:
- a) the elaboration of a collaboration strategy with the Romanian civil society involved in this field;



- b) the organization and functioning of the National Alliance against Discrimination;
  - c) the supporting of the collaboration among non-governmental organizations in the field, public administration entities and decentralized public services.
5. The Community Programme and projects with external financing lies in:
- a) the information of non-governmental organizations that acts in the field with regards to the possibilities of accessing the community funds as well as other external funds in view of carrying out specific projects;
  - b) the collaboration with non-governmental organizations in elaborating and implementing specific projects;
  - c) the management of the Community Action Programme for Combating Discrimination 2001-2006.

### **3. Policy of enforcement of the legislative framework (sanctioning policy)**

The implementation of the existent legislative frame on preventing and combating discrimination is accomplished by the following activities:

- a) the registration of the petitions and complaints on the violation of normative dispositions relating to equality and non-discrimination principles from physical persons, non-governmental organizations other legal persons, public institutions;
- b) the analysis of petitions and qualification of discrimination deeds;
- c) the taking of decisions and enforcement sanctioning measures proper to the discrimination deeds.