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**NATIONAL COUNCIL  
FOR COMBATING  
DISCRIMINATION**

**ROMANIA**

**OSCE CONFERENCE ON  
COMBATING ANTI-SEMITISM  
AND OTHER FORMS OF  
INTOLERANCE  
8-9 JUNE 2005  
CORDOBA**

## The National Council for Combating Discrimination

The National Council for Combating Discrimination is a specialized body of central public administration, with juridical personality, qualified to investigate, to ascertain and to sanction the contraventions provided by the Government Ordinance no. 137/2000 regarding the prevention and sanction of all forms of discrimination.

The National Council for Combating Discrimination was founded as an organism with European vocation, meant to fight against all forms of discrimination. In the exercise of its functions, the Council independently carries out its activity, without any restriction or influence coming from other public institution or authorities. Through his specific function, and his competence aria the Council is the first institution of this kind in Central and Eastern Europe.

The Romanian legislative framework on the discrimination field provides the principle of equality among all citizens without discrimination on grounds of race, nationality, ethnicity, language, religion, social status, beliefs, sex or sexual orientation, age, handicap, chronic non-infectious disease, HIV/AIDS or belonging to a disfavoured category, as well as sanctioning the discrimination deeds.

The national anti-discrimination law covers the following main areas:

- Equality in the economic activity, in terms of employment and profession
- Access to legal, administrative and health public services, to other services, goods and facilities
- Access to education
- Freedom of movement, choice of residence and access to public places
- The right to personal dignity

The institution empowered to implement the principle of equality and assure the equal treatment among people is the ***National Council for Combating Discrimination***.

The Council was established and carries out it's activity through the *Government Ordinance no. 137/2000 regarding the prevention and the sanction of all forms of discrimination*, amended and completed and *Governmental Decision no. 1194/2002 regarding the function and organization of the National Council for Combating Discrimination* amended

and completed. In the exercise of its functions, the Council independently carries out its activity, without any restriction or influence coming from other public institutions or authorities.

The Council performs the following functions with a view to fulfil the tasks provided by law:

→ proposes the establishment, under the law, of certain actions or special measures for the protection of the disadvantaged persons and categories that are either in a position of inequality as compared to the majority of the citizens due to their social origin or a handicap, or are confronted with attitudes of rejection and marginalization, when not benefiting from the equality of chances.

→ proposes to the Government draft legal regulations in the field;

→ co-operates with public authorities, legal and natural entities in order to prevent, sanction and eliminate all forms of discrimination;

→ watches the application and observance of the legal provisions on preventing, sanctioning and eliminating all forms of discrimination by public authorities, legal and natural entities;

→ receives petitions and complaints regarding violations of the legal provisions concerning the principle of equality and non-discrimination from natural entities, NGOs with activities in the field of the protection of human rights, other legal entities, public institutions;

→ analyses the respective petitions and complaints, adopts the appropriate measures and answers within the term provided under the law;

→ elaborates studies and researches on the observance of the principle of equality and non-discrimination that shall be submitted to the Government and made public;

→ ascertains and sanctions the contraventions provided under the Government's Ordinance No. 137/2000;

→ co-operates with similar foreign organizations and with foreign NGOs active in the field of the protection of human rights, as well as with international organizations in the field.

The deliberative body of the Council is the Steering board, which was assigned on 2002. The Steering board analyses the facts and determines what sanction should be applied in the discrimination cases brought in front of the Council.

The primary action of the National Council for Combating Discrimination in the field of preventing and combating all forms of discrimination is to implement the principle of equal treatment and equal chances between all citizens, by ensuring the transposition of the European legislation in the field, having in view the achievement of a sustainable model in the field of equality and security among all citizens and also to encourage and facilitate social communication.

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 for eliminating all forms 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.

### **Scopes**

The National Council for Combating Discrimination, aiming at the implementation of the principle of equality among citizens and preventing, as well as combating the discrimination deeds, has in view the achievement of its goals, structured on five primary actions, as follows:

#### *1. Preventing Discrimination*

- Organizing and carrying out of national awareness campaigns based on the equality of chances and the respect for individual rights;
- The improvement of the legislative framework on discrimination field by drafting and promoting of internal laws based on European standards, as well as harmonizing the existent laws with the above mentioned standards;
- Drafting and signing some protocols on mutual assistance and cooperation with the public administration authorities, for assuring the prevention, sanctioning and elimination of all forms of discrimination;
- Creating and developing partnerships with Romanian civil society representatives in view of preventing discrimination;
- Constant information of citizens on the activities of the Council, on the possible changes in the legal framework in the discrimination field and on the European expertise in this matter;
- Institutional building by creating national work-points for combating discrimination;

## *2. Sanctioning the discrimination deeds*

- Analyzing the petitions and complains regarding violations of the legal provisions concerning the principle of equality and non-discrimination from natural entities, NGOs with activities in the field of the protection of human rights, other legal entities, and public institutions.

## *3. Cooperation*

- Creating and developing bilateral relations with similar bodies existing in European area;
- Creating and developing a good cooperation with the international NGOs fighting for human rights;
- Creating and developing cooperation relations with national NGOs activating in human rights and preventing discrimination fields;
- Creating and developing cooperation relations with Trade Unions;
- Creating and developing cooperation relations with central public administration authorities;
- Creating and developing cooperation relations with intergovernmental organizations.

## *4. Monitoring discrimination deeds*

## *5. Specialized assistance for discriminated persons*

### **The Discrimination criteria covered by the Romanian legislation**

- Race
- Nationality
- Ethnicity
- Language
- Social status
- Religion
- Belief
- Gender
- Sexual orientation
- Age
- Disability
- Chronicle non-contagious disease
- HIV/SIDA infection
- Disfavoured category

## SOLVING COMPLAINTS:

The main task of the Steering Board is to solve complaints. In the field of discrimination of the national and ethnic minorities, NCCD received 223 complaints on the ground of nationality and ethnicity (September 2002 – May 2005). Ways of solving petitions

- Direct way – contravention sanctioning
- Indirect way – mediation between different communities

## Proceedings

The Steering Board of the National Council for Combating Discrimination, exercising its deliberative role, analyses the petitions and complains received, and adopts by decisions, the appropriate measures, after the investigations carried by the specialized personal of the Council (the Inspection Team). The decision adopted, the Steering Board decides over the fine which is to be paid by the person or by the legal entity, for perpetrating a discrimination deed.

The sanctions applied for perpetrating the discrimination deeds can be appealed under the procedure provided by the common law on legal domain of offences.

For all discrimination cases, the victims are entitled to claim damages, proportionally with the prejudice, as well as to the reestablishment of the situation prior to the discrimination or due to the annulment of the situation created by discrimination, in accordance with common law. Upon request, the court can order that the competent authorities withdraw the license of legal entities that significantly prejudice the society by means of a discriminatory action or although have caused a minor prejudice repeatedly violate the provisions of the Government Decision no 137/2000. Human rights non-governmental organizations can appear in court as parties in cases involving discriminations pertaining to their field of activity and which prejudice a community or a group of persons.

1. A non-governmental organization sent a complaint to NCCD with respect to a speech of a Secker leader. On the February 12, 2005, at the National Secker Council's meeting held in the Gheorgheni town, Mr. M.J. made a speech with the following statements: **"In Hungary are living 10 millions people but this number is saying something else. I have to say that- and I hope that nobody gets angry- Hungary is the only country that....please look,; Germany is lead by Germans, Poland is lead by**

polish, Slovakia is lead by Slovaks, ....step by step becomes the second Israel.”

The statement of Mr. M was published in the newspaper “Kronika” on February 16, 2005.

The investigations at the petitioner’s residence and at the office of the newspaper Kronika have been made on March 02, 2005 by 3 members of the Steering Board. During the investigations they discussed with the newspaper representatives and with Mr. M from whom they took a holograph statement.

During the examination as well as in the holograph statement, Mr. M specified that it wasn’t his desire and it won’t be to bring a charge against a social category regarding his ethnic belonging. All these were line out from the context by the newspaper, and don’t reflect the true sense of the statements. To come to his aid, Mr. M also mentioned that he is held in respect by the local community with whom he has good relations no matter if they are Romanians or Roma people.

The statement of Mr. M brings together the constitutive elements of the contraventional fact, namely:

1) the guiltiness of Mr. M is marked by **his offending public behavior** on February 12, 2005 with the occasion of the C.N.S. discussion, occasion in which he made the statements found in the Steering Board own observation. Gathered the declaration content with his speech we may charge Mr. M with negligence gross.

2) the infringed social value in the meaning gave by his speech is the Jews dignity which through the statement... **”Hungary is the only country which becomes step by step the second Israel”**, created an offending atmosphere against Jews people. At the same time the sense of the statements also has a character of nationalistic-chauvinistic propaganda.

3) the manifested attitude of Mr. M is stipulated under the provisions of article 19 from the G.O. no 137/2000 regarding the prevention and sanctioning of all forms of discrimination: **Under the ordinance herein, any offending public behavior, any public behavior with a nationalistic-chauvinist character, any incitement to racial or national hatred, or any behavior aiming to prejudice a person’s dignity or to create a hostile, degrading, humiliating or offending atmosphere, perpetrated against a person, a group of persons or a community on account of race, nationality, ethnic group, religion, social category or belonging to a disfavored category, on account of beliefs, sex, sexual orientation shall constitute an offence, unless the deeds falls under the incidence of criminal law.**

The debates regarding the applicable sanctions in case were closed by the agreement of all the members of the Steering Board concerning the contraventional fine of 5 millions lei.

The Steering Board agreed with the conclusions of the report and appreciates that, in question, the constitutive elements of the contravention stipulated on article 19 from the G.O. no 137/2000 regarding

the prevention and sanctioning of all forms of discrimination, are gathered and a contraventional fine of 5 millions lei will be apply.

Taking into account the reasons of the Steering Board, on the grounds of article 7, paragraph 2 from the G.O. no 1194/2001 regarding the organization and functioning of the National Council for Combating Discrimination, with further modifications and completions, with no dissentient voice, of the present members, the Steering Board decided the facts presented are discrimination deeds and a sanction of 5 millions lei was applied.

2. A natural person submitted a complaint to NCCD considering that a discrimination deed took place and this person was its victim. In fact, in the meeting of the Professorial Council, held on March 4, 2003 Mrs. P announced her intention to participate to in a contest and asked for the Council's recommendation. Two months before, on January 2003, the Professorial Council granted Mrs. P the recommendation for the acquiring of the gradation of ability, gradation that was granted.

In the meeting of the Professorial Council from March 11, 2003 was discussed the granting of the recommendation. Mr. U. I. stroke the balance of the activity regarding the last two years since these two directors worked together. The granting of the recommendation was proposed. As a result of counting the votes it have been decided (33 votes for and 8 against) to grant a single recommendation for Mrs. R. E., the present director and the opponent of Mrs. P.

Mrs. P considered the decision of granting a single recommendation non-democratic. Mrs. U. I – the deputy manager of the high school- explained that, although in the MEC order 3448/2002 it is said that the **recommendation/ reference** of the Professorial Council (where the candidate carried on his activity in the last school year) that must contain the professional and moral features of the candidate is necessary, the Professorial Council of the P. T. High school understood that **the recommendation is an optional document, and the reference is a obligatory one.**

The National Council for Combating Discrimination asked for an interpretation of the Ministry of Education, Research and Youth regarding the optional or obligatory character of the recommendation/reference, but the Ministry didn't answer to the requirement.

Mrs. I. K. – the general school inspector of the Education Board of Covasna asked the Professorial Council for the relieving of a reference of Mrs. P, and they accepted the registration file that was registered at the Inspectorate, showing that the recommendation/reference is not needed at the registration, it's only a formality. The reference was relieved after three meetings of the Professorial Council.

In the meeting of the Education Board Administrative Council of Covasna from March 19, 2003 the recording file of Mrs. P was turned down



because only the teaching staff with an age four times small than the standard age of retire, according to the mandate expiration, can candidate for this job. Mrs. P asked the Ministry of Education and Research- Direction for Evaluation, Prognostication and Development- for a derogation regarding the suitable age for this job, the derogation was granted.

Mr. U. I., the deputy manager of the High school enlightens us regarding who grant and who draw up the recommendation/reference. Both recommendation and reference are granted by the Professorial Council. In the meeting of the Professorial Council from March 18, 2003, on the agenda was found the reference granting to Mrs. P. Mr. U. I. said that the recommendation was draw up by him, and regarding the reference of each of the teaching staff, he also said some words about Mrs. P, but these aspects are not found in the record of evidence.

On the March 18, 2003 the statements of Mr. K. G.- the syndicate leader of the „T” High school- regarding his desire of not wanting as director a Romanian person( saying that: „I’m against that the only member of Romanian nationality to be director”), were published in the „Haromszek” newspaper. Mrs. F.R. the reporter of the „Haromszek” newspaper said that Mr. G went to the editorial office and declared the above mentioned. After the publication of the newspaper, Mr. G didn’t claim the right to retort.

The Steering Board decided that Mr. K.G. statements constitute discrimination deed and sanctioned Mr. K.G. with warning.

**The Steering Board of the National Council for Combating Discrimination disapproved and sanctioned the discrimination deeds happened during the football games, when supporters of different teams sang discriminatory songs or shouted racist or anti-gypsies slogans. Also, officials of the football teams were warned. Not only were the racist slogans sanctioned but also representatives of public administration or journalists. Some mayors made discriminatory statements with respect to Roma community, offending the Roma ethnics and creating a hostile atmosphere regarding them. There were journalists who wrote articles not necessarily with the purpose of offending the Roma but with this effect, therefore they created a hostile, deteriorated, humiliating atmosphere for Roma community.**

The National Council for Combating Discrimination pays a special attention to Roma community being aware that they are in a less favorable situation. In this respect, NCCD cooperates with Roma NGO for common actions.

The National Council for Combating Discrimination stated in public that mentioning the nationality or ethnic origin of a person in an article, show or news if this element is not significant for the public is not a professional behavior. Associating the term “Muslim” or “roma”

or "Jewish" with a negative context may create a bad image for that specific community.

The National Council for Combating Discrimination sanctioned the journalist who wrote discriminatory articles, considering that the freedom of expression is not an absolute right, but a relative one and it has some limits. The role of the journalists is to form and to inform the public and from this perspective their behavior is very important. On the other hand, NCCD sanctioned the newspapers that published the articles, contributing this way to promote an untrue negative image.