

OSCE Human Dimension Implementation Meeting

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27 September 2007: OSCE Action Plan on Roma and Sinti



Human Rights, Redress and Remedies in case of Roma
A perspective of the National Council for Combating Discrimination from Romania



National Council for Combating Discrimination

- **According to the currently adopted law no. 324/2006, the National Council for Combating Discrimination is the public authority of the state that rules in matters of discrimination, is autonomous, under Parliamentary control and at the same time it is the guarantor of enforcement and substantiating the observance of the principle of non-discrimination, in accordance with the national legislation in force and with international covenants to which Romania is a party**
- **The National Council for Combating Discrimination is the national authority in Romania which investigate and sanctions facts or acts of discrimination; independently, without being railed or influenced by other institutions or public authorities**
- **In finding and sanctioning discrimination, the NCCD is working trough the Steering Board, the deliberative body of the Council. The members of the Steering Board (9 persons) are analyzing the complaints lodged before the NCCD and they are empowered to apply contravention sanctions**
- **In this regard, the Steering Board adopts Decisions, Instructions and Regulations which are legally binding**
- **The members of the Steering Board are empowered by the law to investigate acts or facts of discrimination**



Anti-discrimination legislation in Romania

- The anti-discrimination legal framework is provided through **Governmental Ordinance no.127/2000 on preventing and sanctioning all forms of discrimination**, modified and completed by **Law no.48/2002, G.O. no.77/2003, Law no.27/2004** and the latest **Law no.324/2006**.
- The current legal framework **is transposing** the provisions of **Council Directive no.2000/43/CE** regarding the **equal treatment** principle regardless **of race or ethnicity**, published in the Official Journal of European Communities (JOCE) no. L180 of 19 July 2000, as well as the provisions of **Council Directive no. 2000/78/CE** regarding the creation of a framework for **equal treatment, employment and occupation** of labor forces, published in the Official Journal of European Communities (JOCE) no. L303 of 2 December 2000.



Existing standards in the anti-discrimination law

- **Direct discrimination**
- **Indirect discrimination**
- **Harassment**
- **Victimization**
- **Order to discriminate**
- **Discrimination based on 2 or more criteria's constitutes an aggravated circumstance**
- **Criteria's of discrimination: race, nationality, ethnic belonging, language, religion, social category, beliefs, sex or sexual orientation, age, disfavored category, non contagious chronic disease, HIV infection, appurtenance to a disfavored category, as well as any other criterion**
- **Affirmative measures (affirmative action not positive discrimination)**
- **Independent specialized institution under control of the Parliament**
- **Ex officio investigations**
- **Specialized assistance for victims of discrimination**
- **Mediation on discrimination cases**
- **Evidence/proof of discrimination by any means including audio, video recordings, statistics**
- **Shifting the burden of proof**
- **Sanctions starting from warnings to fines up to 2500 EU**
- **NGO's have locus standi positions before NCCD or Courts of law**



European Union references about racism in Romania

- **2005:** “The National Council for Combating Discrimination needs to work together with all relevant Romanian authorities in order to **demonstrate, at all levels, that the country applies a zero-tolerance policy on racism against Roma** or against any other minority or group and that this policy is effectively implemented”.
- **2006:** The law on preventing and combating all forms of discrimination was completed in line with the EU standards regarding the independence of the National Council for Combating Discrimination... But the “Romanian authorities **do not yet demonstrate at all levels that a zero-tolerance policy on racism against Roma** is applied”.



Complaints lodged before the Council on racial/ethnic ground

| Ground | 2002 | 2003 | 2004 | 2005 | 2006 |
|---|--------|--------|--------|--------|--------|
| Race | 0 | 0 | 1 | 1 | 2 |
| Ethnic origin | 34 | 66 | 45 | 85 | 69 |
| National origin | 1 | 12 | 21 | 39 | 20 |
| Complaints not related to discrimination | 52 | 184 | 108 | 61 | 132 |
| Percentage complaints not related to discrimination | 38,8% | 38,9% | 30,59% | 15,96 | 30,5% |
| Total complaints lodged before NCCD | 134 | 473 | 353 | 382 | 432 |
| Percentage complaints on Racial/Ethnic ground | 25,37% | 13,95% | 13,03% | 22,51% | 16,43% |



Sanctions (warnings-fines) imposed by NCCD in 2002-2006

| Total no. complaints | Total sanctions | Ground of discrimination | Percentage |
|---|---|------------------------------------|-------------------|
| 299* by end of 2006 | 60* | Ethnic origin (approx. 38%) | 19% |
| X | 28 | Age | |
| X | 23 | Sex | |
| X | 9 | Nationality | |
| X | 8 | Social status | |
| X | 7 | Religion | |
| X | 2 | Language | |
| X | 4 | Residence | |
| X | 4 | Sexual Orientation | |
| X | 3 | Disability | |
| X | 3 | HIV/Aids | |
| X | 1 | Beliefs | |
| X | 1 | Race | |
| Total: 1542 1774* by end of 2006 | 151* by mid 2006 *170 by end of 2006 | | Approx.10% |



Sanctions imposed by NCCD consisting in warning or fines up to 1000 EU in 2002-2006

| Total nr. Complaints | Total nr. sanctions | Ground of discrimination | Percentage |
|----------------------|---------------------|--------------------------|---|
| 1774 | 170 | On all grounds | In approx. 10% of the cases a sanction has been imposed |
| 299 | 60 | Ethnic origin | In approx. 19% of the cases a sanction has been imposed |

Approx. 38% from the sanctions applied were related to Ethnic discrimination



Areas where ethnic discrimination occurred according to sanctions applied 2002-2006

| Area of discrimination | | Sanctions/Year | | | |
|---|----|----------------|------|------|----------|
| | | 2002/03 | 2004 | 2005 | Mid 2006 |
| Discriminatory adds in press (advertisement): | 14 | 9 | 0 | 5 | 0 |
| Discriminatory press articles related to Roma: | 12 | 8 | 0 | 3 | 0 |
| Denial of access to public places:clubs, pubs etc. | 10 | 7 | 1 | 3 | 0 |
| Hate speach (incitement to hatred): | 13 | 1 | 2 | 5 | 6 |
| Discrimination in sport (using racist slogans): | 2 | 0 | 0 | 2 | 0 |
| Employment (comercial relations): | 1 | 0 | 0 | 1 | 0 |
| Residential segregation (replacement, wall): | | 0 | 0 | 1 | 1 |
| Segregation in education: | 2 | 1 | 0 | 0 | 1 |
| Denial of service in public places: | 1 | 0 | 0 | 1 | 0 |
| Denial of aaccess to stores: | 1 | 0 | 0 | 1 | 0 |
| Discriminatory statistics of Police: | 1 | 0 | 0 | 1 | 0 |
| Total no. of sanctions: | 60 | 26 | 3 | 23 | 8 |



Cases solved by mediation-friendly settlement

| Year | Case | Subject of complaint | Ground | Outcome |
|------|---|--|------------------|---|
| 2003 | D.P. vs. Club M | Denial of access into club | Ethnicity (Roma) | Roma are allowed to enter the club |
| 2004 | Roma Party Balteni vs. M.I. local councilor PRM | Hate speech against Roma and the Roma Party leaders | Ethnicity (Roma) | Public Apologies and friendly settlement |
| 2005 | I.V. vs. Private company (7 November pool) | Denial of access into swimming pool | Ethnicity (Roma) | Roma are allowed to enter the swimming pool The owner will adopt new accessible rules for access |
| 2005 | Romani CRISS vs. Anuntul.ro | Discriminatory adds in real estate filed on internet | Ethnicity (Roma) | Replacement of add, cooperation in avoiding similar adds, public apologies |



Sanctions applies on ethnic discrimination cases (Roma)

| Nr. crt. | Petitioners | Offender | Sanction | State of Things |
|----------|----------------------|------------------------|------------------------|--|
| 1. | Suceava Prefecture | Bucovina SEV (Suceava) | Fine of 2 millions lei | The publishing of an article with discrimination character addressed to Roma ethnicity. |
| 2. | AVEN AMENZA | Ziua de Vest Timisoara | Fine of 2 millions lei | The publishing an article with discrimination character addressed to Roma ethnicity. |
| 3. | MIP | MC (Ploiesti) | Fine of 2 millions | Declaration with discriminatory character addressed to Roma ethnicity. |
| 4. | Romani Criss | Casablanca Bar | Fine of 2 millions | Denial of access due to Roma ethnicity in the bar. (At the bar entrance) was an announcement which mentioned "Roma group forbidden"/ No access for Roma group. |
| 5. | R.C. | M.C. | Fine of 8 millions | Denial of access due to Roma ethnicity in the bar. At the bar entrance were 2 announcements: "We have the right to choose our clients" and "We don't serve Roma" |
| 6. | R.C. | D.N.O. (Roman) | Warning | Denial of access of Roma group in disco. The bodyguard claimed that the bar owner would stated that "crows not allowed" |
| 7. | Accept | Ziua (Bucuresti) | Fine of 2 millions | The publishing of an article with discrimination character addressed to Roma ethnicity. |
| 8. | IJP Buzau | SC Beni Carmen (Buzau) | Fine of 4 millions | Denial of access of Roma group in the bar. At the bar entrance of SC B – CSNC association was posted an announcement that mentioned "Roma access forbidden". |
| 9. | NCCD own observation | Karmine Disco (Cluj) | Fine of 5 millions | Denial of access of Roma group in the disco. |
| 10. | NCCD own observation | Vox Disco (Focsani) | Warning | Denial of access of Roma group in the disco. |



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|----|----------------------|------------------------------|--------------------|---|
| 11 | Romani Criss | General School Cehei | Warning | The creation of unequal educational conditions for Roma children towards the majority. In fact, students of Roma ethnicity were learning separately from the majority of children in another building and in inferior conditions. |
| 12 | Romani Criss | Piata de la A la Z, Family T | Warning | The publishing of announcements with discriminatory character stating that persons of Roma ethnicity were forbidden to rent that house. |
| 13 | Romani Criss | MP | Fine of 2 millions | The publishing of articles with discriminatory character addressed to Roma ethnicity. |
| 14 | NCCD own observation | Guinness Pub and Greece Pub | Warning | Denial of the access in public places. |
| 15 | NCCD own observation | Monitorul de Vrancea SA | Warning Warning | The publishing of an announcement with discriminatory character which forbade the admittance of Roma persons in the building. |
| 16 | Roma Party | CM | Warning | The publishing of an article with discriminatory character addressed to Roma ethnicity. |
| 18 | Romani Criss, AMP | Bamboo Club | Warning | Denial of access of a Roma group in a club |
| 19 | M.C | S.C. Nibia S.R.L | Warning | Refusal of serving the petitioner and the people who joined him on the ground of being gypsy |
| 20 | Romani Criss | Anuntul Telefontic | Fine of 7 millions | The publishing of an announcement with discriminatory character addressed to Roma ethnicity |
| 21 | Romani Criss | Publisher | Warning | The sending for publication of an announcement with discriminatory character addressed to Roma ethnicity. |



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|----|----------------------------------|----------------------|-------------------------|--|
| 22 | Ex officio and Pro Europa League | M.I. | Fine of 5 millions ROL | Statements with discriminatory character performed during a public speech. |
| 23 | Agentia IMPREUNA | Duval Impex 2001 SRL | Warning | Denial of access of 2 young Roma persons in ASE by a bodyguard hired by Duval Impex |
| 24 | NCCD own observation | FC Steaua Bucuresti | Fine of 40 millions ROL | The shouting of slogans with discriminatory character by the "STEAUA" supporters addressed to RAPID supporters and team. |
| 25 | NCCD own observation | G.S | Fine of 20 millions ROL | Passive behavior towards the discriminatory attitude and instigation to discrimination of the STEAUA supporters. |
| 26 | AMP Catavencu | G.P | Warning | Statements with discriminatory character addressed to Roma ethnicity. |
| 27 | AMP Catavencu | E.N | Warning | Statements with discriminatory character addressed to Roma ethnicity. |
| 28 | Romani Criss | O.B | Warning | Publishing of an article with discriminatory character addressed to Roma ethnicity. |
| 29 | Romani Criss | E-jobs | Fine of 4 millions ROL | Apparition of an announcement with discriminatory character on E-jobs site. |
| 30 | Romani Criss | S.C.Adrasim S.R.L | Fine of 20 millions ROL | The publishing of an announcement with discriminatory character on E-jobs site. |
| 31 | R.M | G.L | Warning | Discriminatory statements addressed to Roma ethnicity |
| 32 | Romani Criss | Gazeta de Nord Vest | Warning | Discriminatory statements addressed to Roma ethnicity |
| 33 | Ex officio NCCD | S.A | Fine of 15 millions ROL | Discriminatory statements addressed to Roma ethnicity |



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|----|-----------------------------------|---------------------------------------|----------------------------|--|
| 34 | P.C. | Tg. Frumos City Hall | Warning | The obstruction of the right of developing an economic activity on grounds of ethnicity. |
| 35 | Ex officio NCCD | SC Miercurea Ciuc | Fine of 5 millions ROL | Hockey S.C Miercurea Ciuc club supporters shouted "gypsies out from this country" to Steaua Bucuresti supporters and players team. |
| 36 | Pro Europa League | Rich Life store | Fine of 15 millions ROL | Posting the inscription "Access forbidden to Roma persons" at the store entrance from Cluj –Napoca. |
| 37 | Romani Criss | Autorii anunturilor incriminate | Fine of 4 millions ROL | The publishing of an announcement with discriminatory character addressed to Roma ethnicity |
| 38 | Agriculture National Museum | P.S. | Fine of 10 millions | The publishing of an article with discriminatory character addressed to Roma ethnicity. |
| 39 | Ex officio NCCD | D.B | Warning | The publishing of an article with discriminatory character addressed to Roma ethnicity. |
| 40 | Valea Jiului newspaper | O.M | Warning | Publishing statistics on Official Press Releases by Hunedoara Police Inspectorate including the ethnicity only for Roma offenders. |
| 41 | Ex officio NCCD | National | Warning | The publishing of articles with discriminatory character |
| 42 | Ex officio NCCD | Romania Libera | Warning | The publishing of articles with discriminatory character |
| 43 | Ex officio NCCD | Evenimentul Zilei | Warning | The publishing of articles with discriminatory character |
| 44 | Ex officio NCCD | Monitorul de Bucuresti | Warning | The publishing of articles with discriminatory character |



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|-----|------------------------|----------------------------|--------------------------------|--|
| 45 | Ex officio | Adevarul | Warning | The publishing of articles with discriminatory character |
| 46 | Ex officio | Ziarul | Warning | The publishing of articles with discriminatory character |
| 47 | Ex officio | Ziua | Warning | The publishing of articles with discriminatory character |
| 48 | Romani Criss | M T | Warning | The publishing of an article with discriminatory character addressed to Roma ethnicity. |
| 49 | Roma party | D B A | Warning | The publishing of an article with discriminatory character addressed to Roma ethnicity. |
| 50 | Romani Criss | M T | Warning | The publishing of an article with discriminatory character addressed to Roma ethnicity. |
| 51 | B F | B G | Warning | The petitioner was abused due to her ethnicity |
| 52 | Ex officio NCCD | N B | Fine of 6 millions ROL | Affecting human dignity due to Roma ethnicity |
| 53 | Ex officio NCCD | A.E. | Warning | Segregation of Roma in School no.1 of Macin, respectively the formation of divided classes for Romanian students of Roma ethnicity |
| 54. | Romani CRISS | T. I. | Fine of 100 RON | Discriminatory Article published on Noua Dreapta (New Right)'s web site against Roma minority |
| 55. | Romani CRISS | N.C. | Fine of 150 RON | Discriminatory Article published on Noua Dreapta (New Right)'s web site against Roma minority |
| 56. | Romani CRISS | P.M. | Warning | Discriminatory Article published on Noua Dreapta (New Right)'s web site against Roma minority |
| 57. | Romani CRISS | New Right organization | Fine of 2000 RON | Publishment on the web site of New Right of several discriminatory articles against Roma minority |
| 58. | Ex officio NCCD | C.N. | Warning | Discriminatory statements published in media regarding Roma origin of mr. M.V. |
| 59. | Ex officio and ERRC | C.V.T. | No sanction due to imunity. | Discriminatory public discourse against Roma on Romanian Radio Station. |
| 60. | Liga Pro Europa | Municipality Sfântu Gh. | Reccomendation | Existing wall deviding the Roma community from the majority, builet around 1980. |



Initiatives on Roma issues in 2006-2007

- **NCCD is cooperating with NGO's in general and Roma NGO's in particular in anti-discrimination related matters, in several projects aiming to prevent and combat ethnic discrimination**
- **NCCD is participating together with Roma NGO's in providing training sessions on anti-discrimination issues for Roma**
- **NCCD is providing training session on anti-discrimination with emphasis on ethnic discrimination for Police officers, public servants, judges and prosecutors**
- **Currently NCCD is providing partnership with Roma NGO's in several PHARE projects on anti-discrimination**
- **NCCD has been involved in promoting and implementing public campaigns for combating racism and ethnic discrimination in football in 2005 and 2006**
- **Under PHARE Twinning Program, NCCD initiated raising awareness campaigns and information sessions about discrimination and ethnic discrimination in particular**
- **NCCD has organized on behalf of the Romanian authorities the 21th meeting of the Council of Europe MG-S-ROM (Group of Specialists on Roma and Travelers Issues) in Bucharest on 2-3th May 2006**



National Council for Combating Discrimination

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