



**NATIONAL COUNCIL FOR COMBATING
DISCRIMINATION**

**Preventing and combating all forms
of discrimination in Romania**

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The National Council for Combating Discrimination

The National Council for Combating Discrimination represents the national authority that investigates and sanctions any discrimination acts. In the exercise of its attributions, the National Council for Combating Discrimination acts as an independent body, under the control of the Romanian Parliament without interference or influence from other institutions or public authorities.

The National Council for Combating Discrimination is responsible with the enforcement and control of the observation of legal provisions in its field of activity, as well as with questions related to the harmonization of dispositions from normative or administrative documents that do not respect the non-discrimination principle.

The Council is responsible for elaborating and enforcing public policies in matters of non-discrimination. For that purpose, the Council consult public authorities, NGOs, trades union and other legal entities whose purpose is to protect human rights and which have a legitimate interest to combat discrimination.

In order to combat the discrimination deeds, the National Council for Combating Discrimination carries on its duties in the following fields:

- Prevention of the discriminations deeds;
- Mediation of discrimination deeds;
- Investigation, ascertaining and sanction of discrimination deeds;
- Monitoring of cases of non-discrimination;
- Providing specialty assistance for the victims of discrimination.

Legal framework on prevention and sanction of all forms of discrimination in Romania

The legal framework in Romania related to combating all forms of discrimination was enlarged when the Government's Ordinance no. 137 from 31st of August 2000 concerning the prevention and sanction of all forms of discrimination¹ was passed, ordinance approved through the Law 48/2002² and modified through the Government's Ordinance no. 77/2003³, approved through the Law 27/2004⁴ and modified by Law.324/2006⁵. The actual legal

¹ The Governmental Ordinance no. 137 from 31st of August 2000 on the prevention and sanction of all forms of discrimination, published in the Official Journal of Romania no. 431 from 2 September 2000.

² The Law no. 48 from 16 January 2002 for the endorsement of the Governmental Ordinance no. 137 from 31st of August 2000 on the prevention and sanction of all forms of discrimination, published in the Official Journal of Romania, Part I, no. 69 from the 31st of January 2002.

³ The Governmental Ordinance no. 77/2003 from 28 of August 2003 for the modification and completion of the Governmental Ordinance no.137/2000, published in the Official Journal, Part I, no. 619 from 30 August 2003.

⁴ The Law no. 27 from 5th of March 2004 for the endorsement of the Governmental Ordinance no. 77/2003 for the modification and completion of the Governmental Ordinance no. 137 from 31st of August 2000 on the prevention and sanction of all forms of discrimination, published in the Official Journal of Romania Part I no. 216 from 11 March 2004.

framework is assuring the transposition of 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 (direct discrimination, indirect discrimination, harassment, order to discriminate, victimization, discrimination based on 2 or more criteria's constitutes an aggravated circumstance, affirmative measures, 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 .

NCCD's duties

NCCD's duties, set up in the Romanian legislation in force in this field are as follows:

- Proposes the setting up, in the conditions of the law, of affirmative actions or special measures for the protection of persons that are disadvantaged in comparison with the rest of the population because of the identity differences from the majority, either confronted with a rejection and marginalization behaviour;
- Approves the draft normative documents that have as goal the exercise of the rights and freedoms, in conditions of equality and non-discrimination;
- Collaborates with the competent public authorities in order to harmonize the national legislation with the international regulations in the field on non-discrimination;
- Collaborates with the public authorities, legal entities and natural persons in order to ensure the prevention, sanction and elimination of all forms of discrimination;
- Pursues the enforcement and observance by the public authorities, legal entities and natural persons, of the normative dispositions that regard the prevention, sanction and elimination of all forms of discrimination;
- Receives petitions and intimations regarding the infringement of the normative regulations related to the principle of equality and non-discrimination from natural persons, non-governmental organizations having as goal the protection of human rights, other legal entities, public institutions, analyzes them, adopts the corresponding measures and communicates the answer in the term mentioned by law;

⁵ Law no.324 from 14 July 2006 for modification and completion of Governmental Ordinance no. 137 from 31st of August 2000 on the prevention and sanction of all forms of discrimination, published in the Official Journal of Romania Part.1, no.626/20.VII.2006

- Collaborates with the non-governmental organizations that have as goal the protection of human rights;
- Elaborates and sets up affirmative policies that have as goal the prevention of discrimination deeds;
- Carries out programs and national campaigns in order to fulfil its duties;
- Carries out studies, opinion polls, research and analysis on the observance of the principle of equality and non-discrimination, presented to the Government and made public;
- Elaborates, publishes and disseminates in the country and abroad publications, reports and materials concerning discrimination;
- Ascertains and sanctions the contraventions mentioned in the Government's Ordinance no. 137/2000;
- Collaborates with similar organizations and with non-governmental organizations in the field of human rights from other states, as well as with international organizations in this field;
- Initiates and organizes seminars, discussions, debates, symposiums, training sessions, round tables and other actions on the theme of combating discrimination;
- Develops partnership programs with international financial institutions;
- Exercises any other attributions established by the Government or Parliament, through normative documents in order to prevent, sanction and eliminate all forms of discrimination.
- In order to fulfil the duties set up in the legislation in force, the NCCD's activity is carried on several strands of action:- prevention;- mediation; - sanction.

The Steering Board

The Board of Directors of the National Council for Combating Discrimination is made up of 9 members appointed through the Parliament according to new legal provisions in place and represents a deliberative organism whose main activity is to solve petitions and intimations related to the commitment of acts or deeds of discrimination, addressed to the National Council for Combating Discrimination.

The Board of Directors analyzes the petitions addressed to the National Council for Combating Discrimination and, together with the Legal and Inspection Office, investigates the cases that have to be analyzed.

Following the debates held in the meetings of the College, the cases that have to be analyzed will be solved through a legally binding decision. In case when the existence of an act or deed of discrimination is certified, the Board of Directors of the National Council for Combating Discrimination may order a contravention sanction (warning or contravention fine).The Board of Directors meets in the presence of at least 4 members and adopts decisions, instructions and regulations in the field of prevention and combating discrimination.

Legal and Inspection Office (LIO)

LIO's staff is made up of civil servants (counsellors and legal advisers). During 2005, the activity of this office was to represent the institution in law courts, to give audiences, to investigate the intimations received by the NCCD, to monitor the files and to carry out statistics, as well as to carry out interfacing activity related to solving the intimations addressed to the Council.

Consultations given by the NCCD's counsellors can be made at the NCCD's headquarters and are addressed to persons that require information on its activity, duties, explanations on the legislation in force in the field on non-discrimination, as well as information about the stage of petitions handed in to NCCD. Consultations may be given by phone or at the place of investigations made by LIO's members. During consultations, LIO's members require information about identification data of the petitioners, the audience's objective (the description of possible act of discrimination), other reference, the petitioner's signature. This information represents the content of a sheet of paper that will be used at certain studies, statistics and analysis that the Legal and Inspection Office carries out. Also these personal data are necessary in order to elaborate the answer for petitioners.

The petitions can be sent to the NCCD's address by regular mail, e-mail, and fax, or can be handed in at the headquarters of the institution following an audience required to the LIO. After the registration of the application (written grievance), this will be distributed by the NCCD's President to the Legal and Inspection Office. After the file is made up, the petition arrives to the meeting of the Board of Directors, a coordinator of the file being thus established. The Board of Directors will order during the meeting the modality to solve the petition by the LIO's counsellors, such as: to solicit more information, such as declarations, documents, proof from the petitioner, to solicit points of view of those accused of committing a possible act of discrimination, to solicit any other information, documents so on from other persons, whose answer may contribute to the solution of the petition, the investigation of the facts presented in the complaint. After receiving all necessary information and elaboration of investigation reports by LIO's members, the file enters again in the meeting of the Board of Directors. The coordinator of the file, depending upon the data, evidence or documents gathered may propose to continue the investigations or deliberation in order to take a decision that will have to be adopted with simple majority of votes of the members of the Board of Directors. The coordinator of the file will edit the decision of the Board of Directors and LIO will elaborate the final decision and will communicate it to the petitioner.

Those discontented with the decision of the Board of Directors may directly attack in a court of law or may formulate a previous complaint at the headquarters of the NCCD, following the possibility to attack the decision in the administrative and legal department. The legal advisers within the LIO represent the interests of the institution in front of a court of law when the institution is sued by natural persons or legal entities, other institutions.

Situation of petitions on discrimination received between 2002-2005 by the National Council for Combating Discrimination (NCCD)

		2002	2003	2004	2005	2006
No.	Discrimination Criteria	No. of received petitions	No. of received petitions	No. of received petitions	No. of received petitions	No. of received petitions 21.09.2006
1	Race	0	0	1	1	2
2	Nationality	1	12	21	39	17
3	Ethnicity	34	66	45	85	54
4	Language	0	2	1	2	2
5	Religion	2	9	9	11	7
6	Social category (pensioners)	17	74	45	90	97
	Social category (owners)	7	43	13	-	-
	Social category (refugees)	1	5	3	-	-
	Social category (stateless)	1	3	2	-	-
7	Beliefs	4	12	23	19	7
8	Gender	3	14	13	9	8
9	Sexual orientation	1	5	6	9	5
10	Age	6	11	14	17	7
11	Disability	3	31	18	21	18
12	Non-contagious chronic disease	0	0	6	2	1
13	HIV infection	0	1	15	10	5
14	Disfavoured category	2	0	10	6	2
	Others (work conflicts, inheritance, disputes)	52	184	108	61	97
	Total	134	473	353	382	329

Sanctions imposed by NCCD consisting in warring or fines up to 1000 EU in 2002-2005

Ground of discrimination	Number of sanctions
Ethnic origin	52 (percentage of sanctions on ethnic ground 52%)
Social status	8
Nationality	9
Age	28
Sex	23
Sexual Orientation	4
Language	2
HIV/Aids	3
Beliefs	1
Race	1
Religion	7
Disability	3
Residence	4
Total	145