

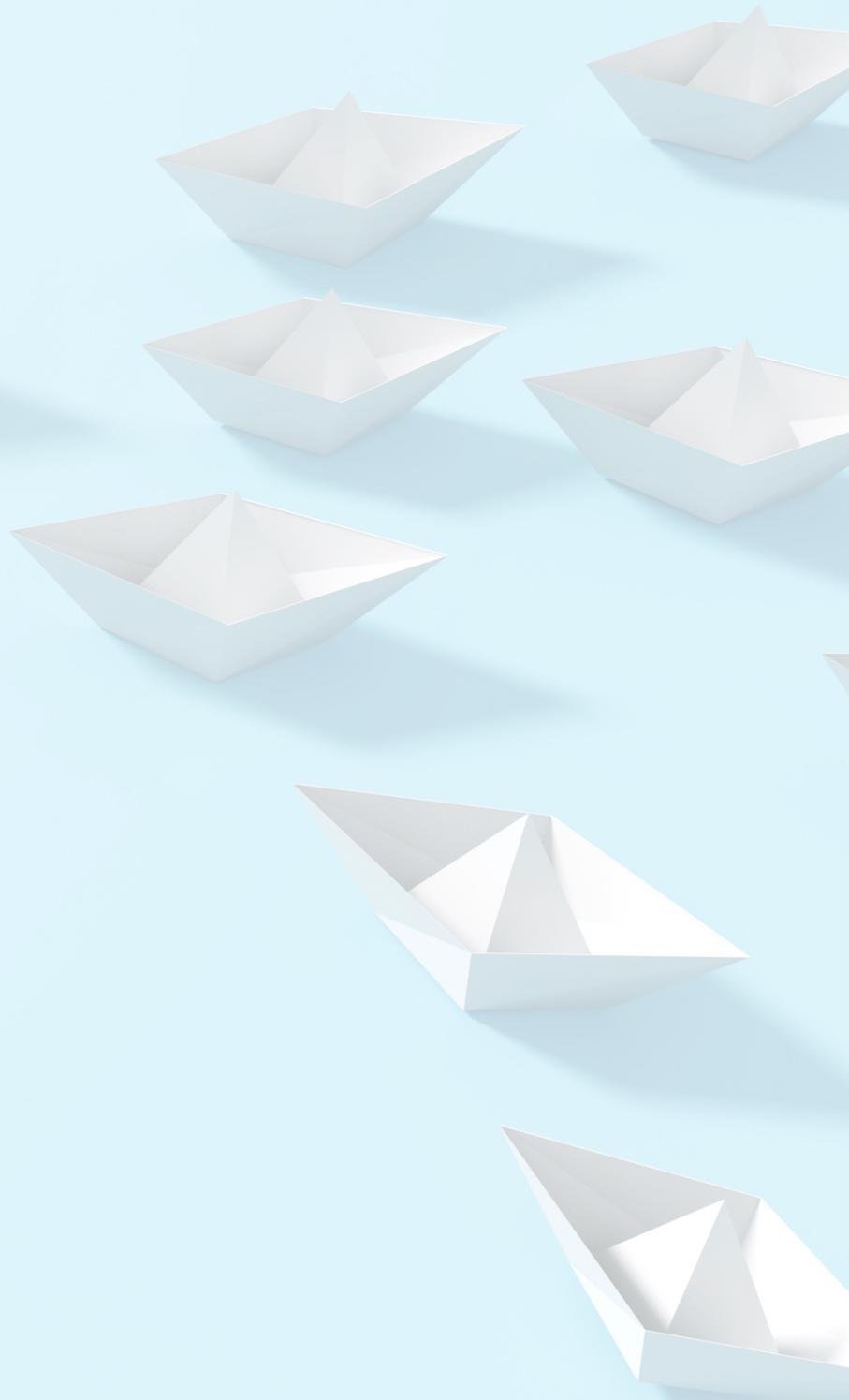
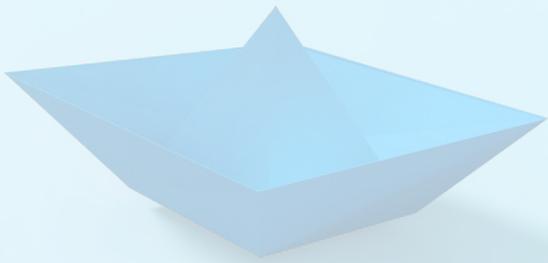


2017

ACTIVITY REPORT



CONSILIUL NAȚIONAL PENTRU COMBATEREA DISCRIMINĂRII



2017

Activity Report



CONSILIUL NAȚIONAL PENTRU COMBATEREA DISCRIMINĂRII

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FOREWORD

The National Council for Combating Discrimination fulfilled its legal duties in 2017 as a guarantor of the observance and application of the principle of non-discrimination in accordance with the domestic legislation in force and with the international documents to which Romania is a party.

Its activity followed the direction of preventing and combating discrimination through activities that implied promoting and educating members of society, respectively by solving the complaints registered with the Council, issuing specialized points of view to the courts and on contentious and administrative matters.

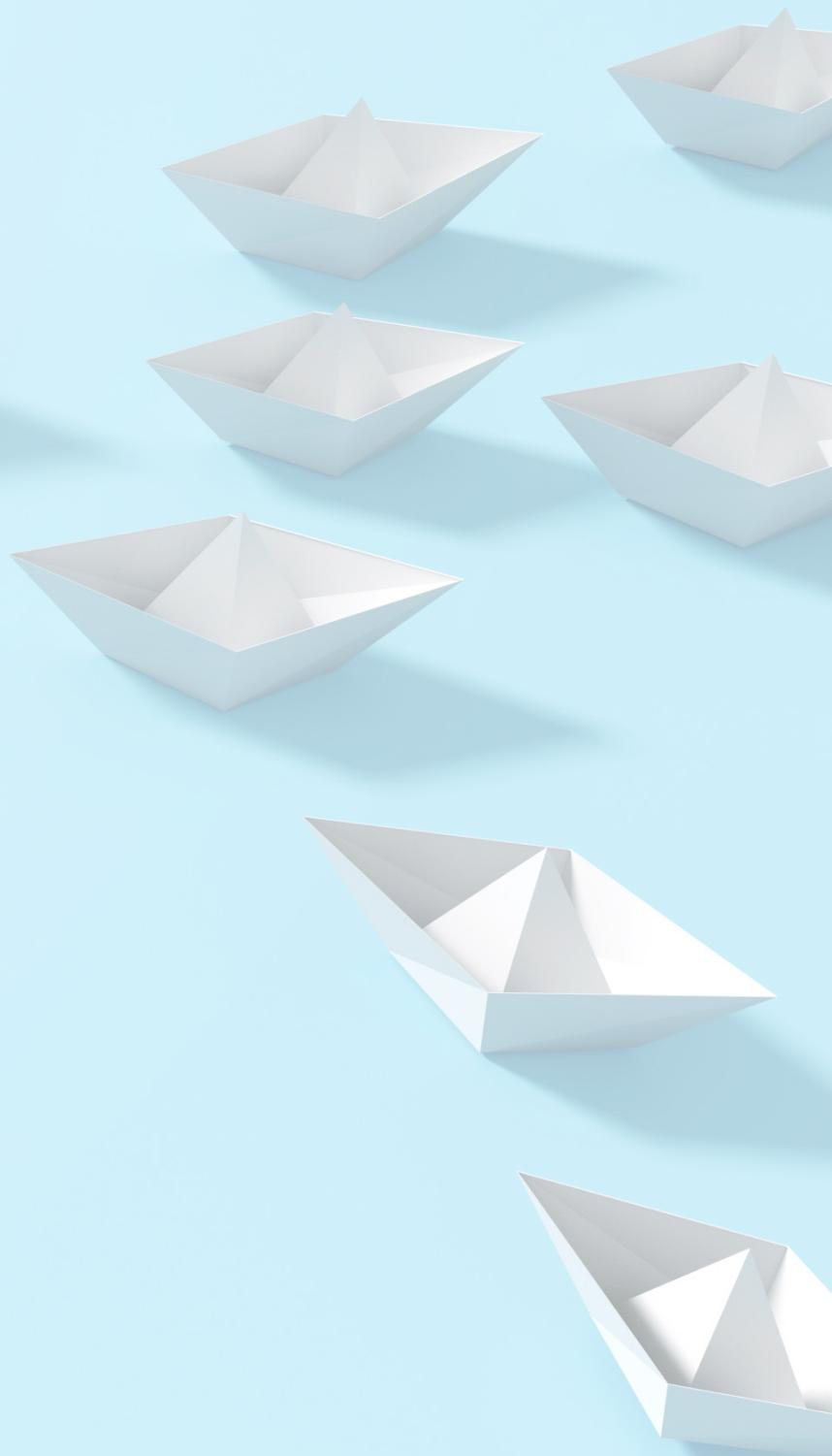
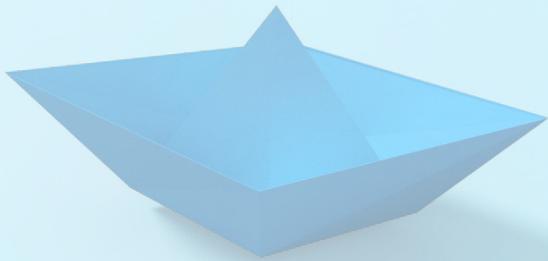
The promotional activities aimed at introducing the principle of non-discrimination into the organizational culture of society through specific actions, such as: training courses for key professional categories of the society, campaigns in educational institutions or public communication activities. In the year ended, the Strategy for Prevention and Combating Discrimination project was finalised and stands to be promoted and adopted at the government level.

The number of complaints and rulings adopted by the Council has remained constant. The criteria for discrimination were age, disability and ethnicity and the areas concerned violating the principle of equality in access to work, education and services. Hate speech and incitement to hatred remain permanent challenges in society and are reflected in the adopted rulings.

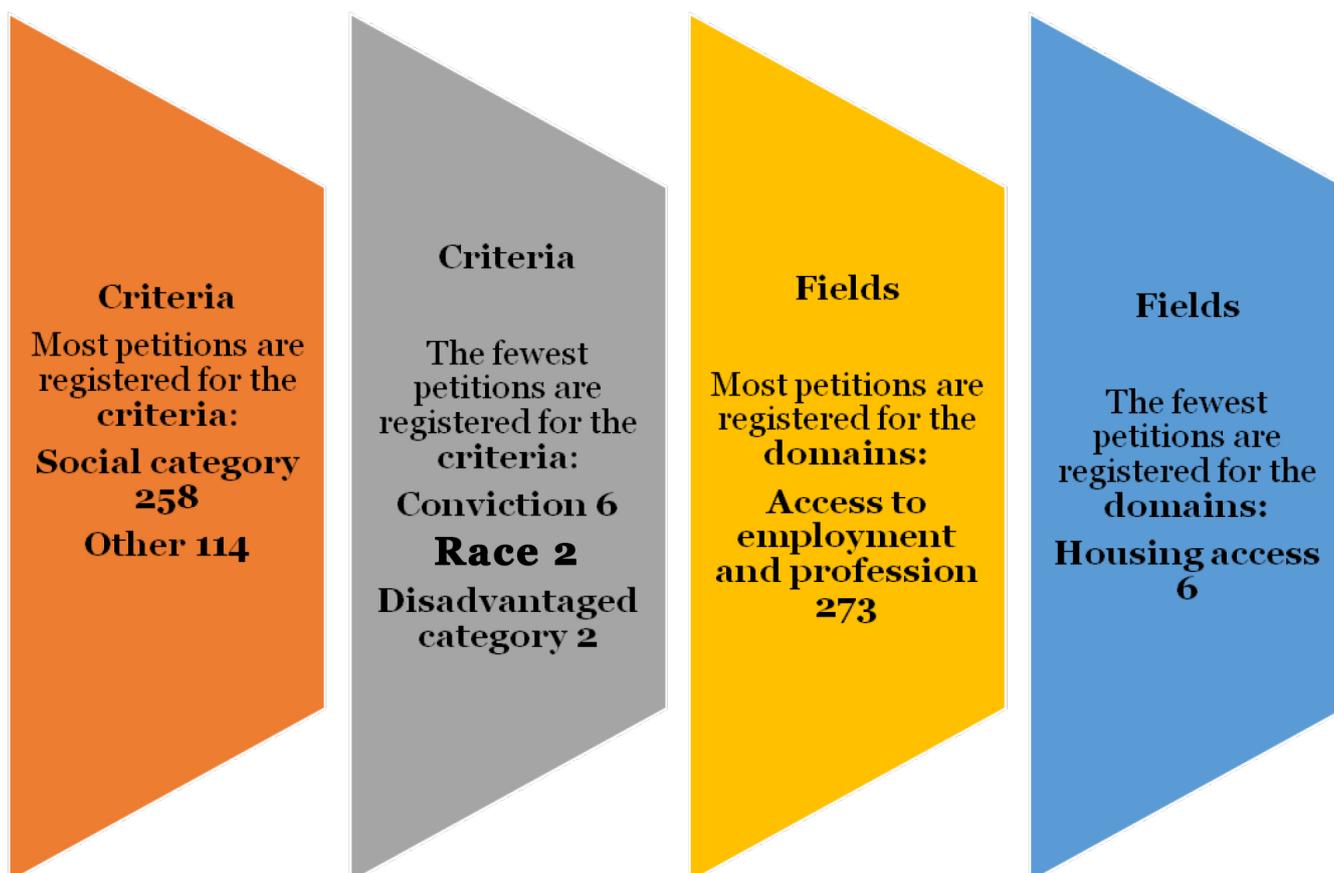
Through its work, the Council has demonstrated equivalence and independence specific to an equality institution. Maintaining this requirement remains a target for our future work.

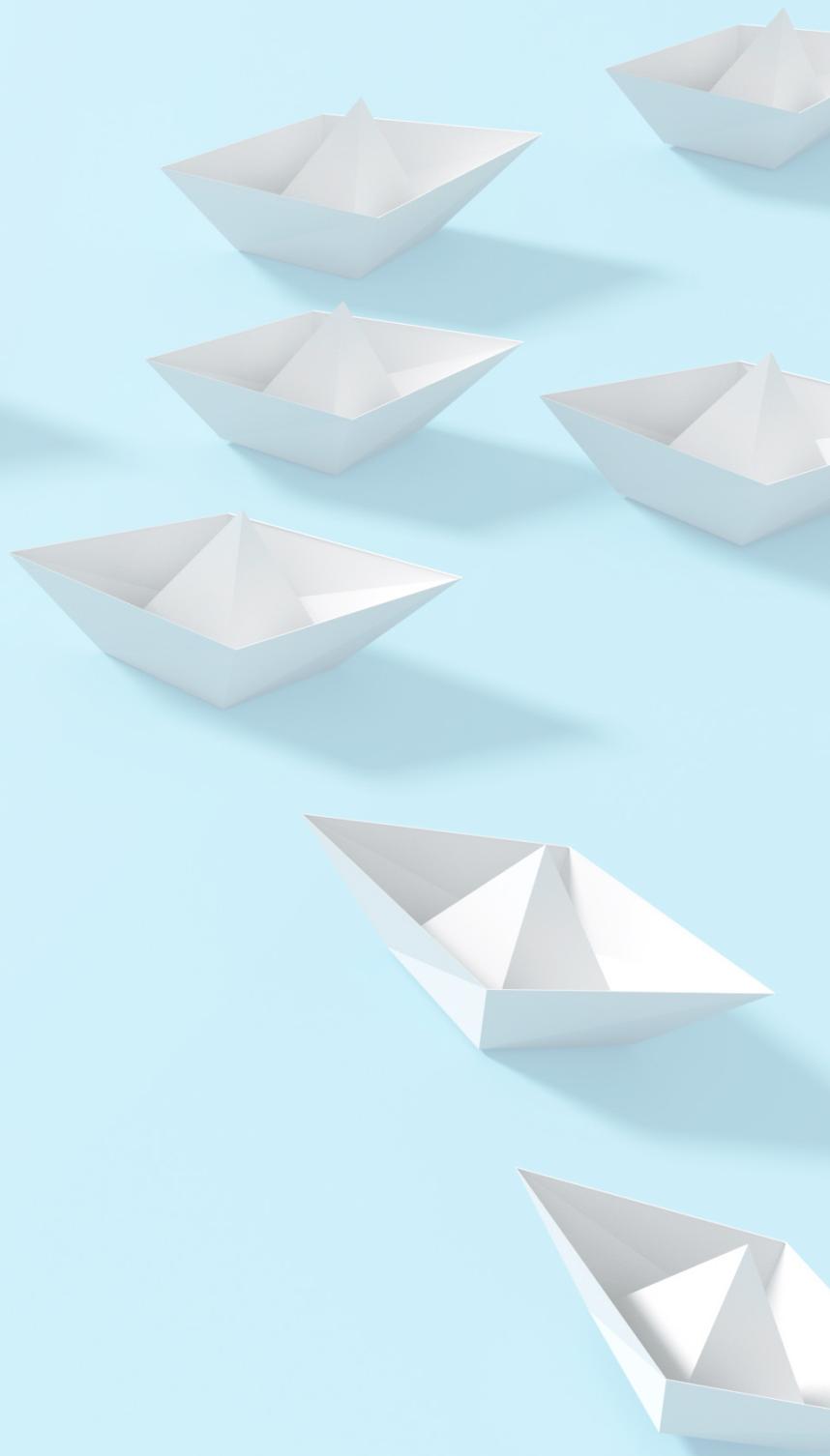
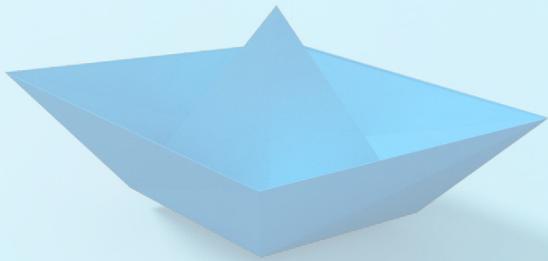
We hereby offer our gratitude to the people who work in this institution, to the citizens, non-governmental organizations and domestic and international public institutions for the partnership relation we had in the year-ended.

We recommend this report for a critical and constructive analysis in order to improve our work.

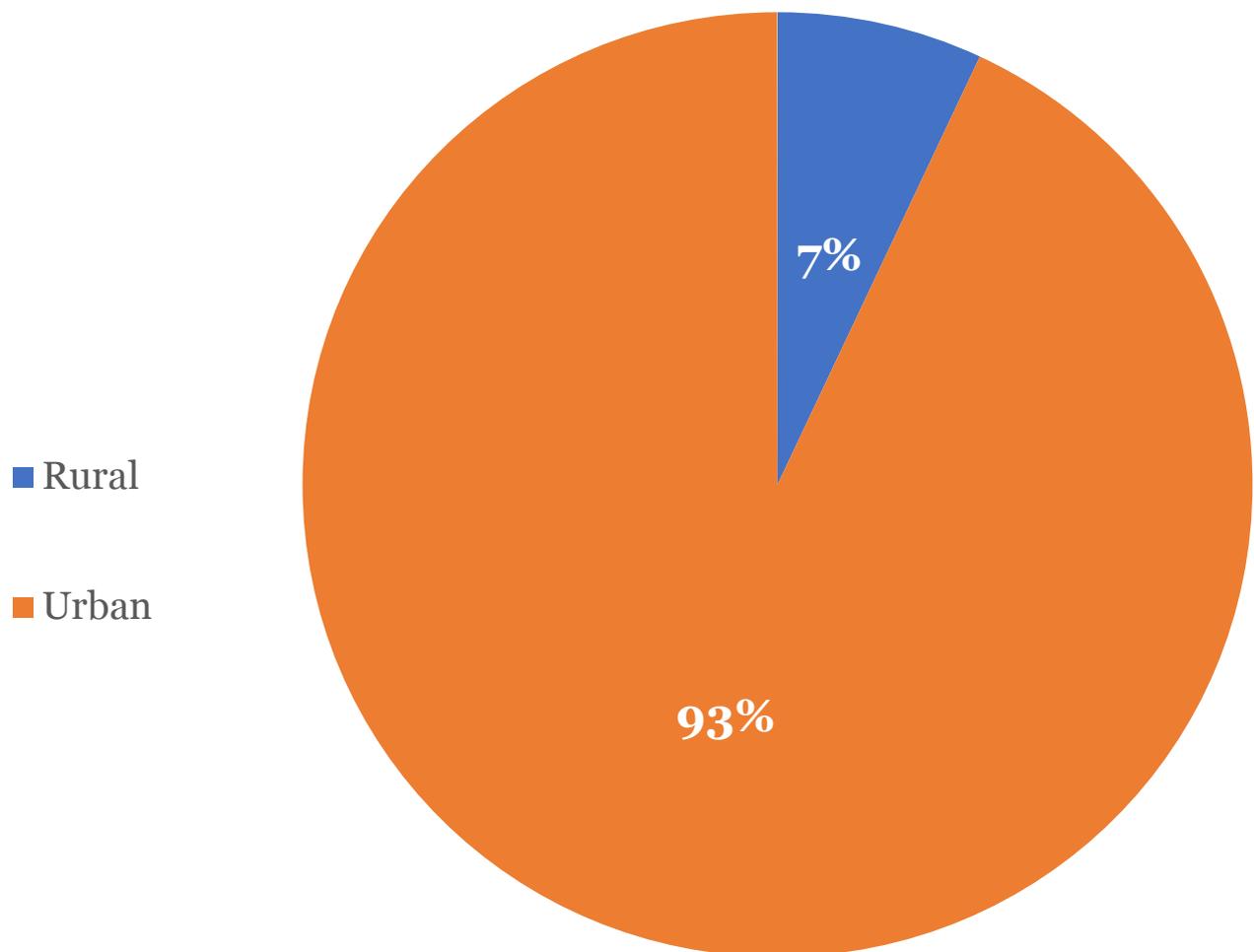


Statistics on the total number of petitions received by N.C.C.D. and the resolution activity carried out in 2017

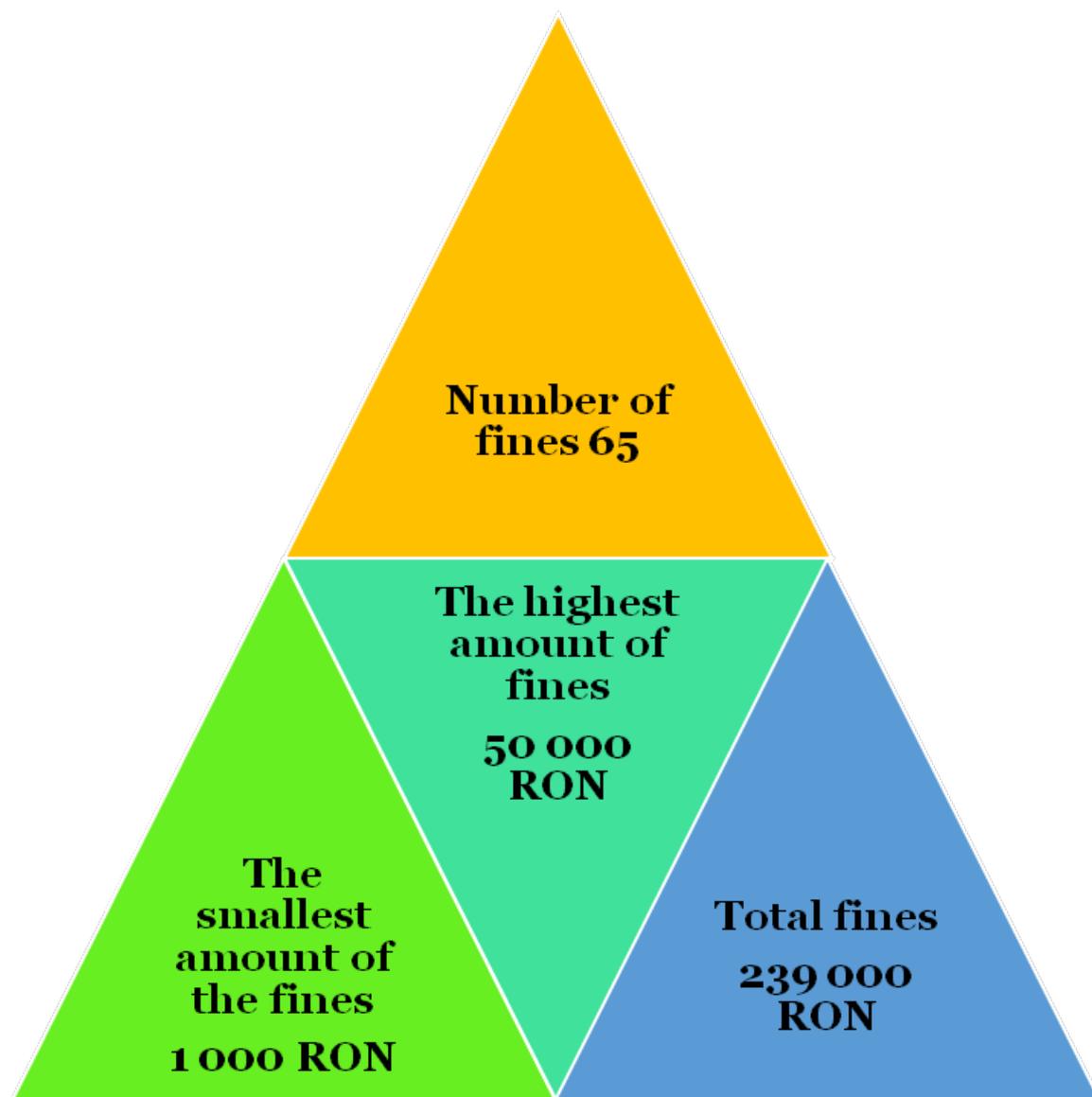




Distribution of petitions received in 2017 by area of origin



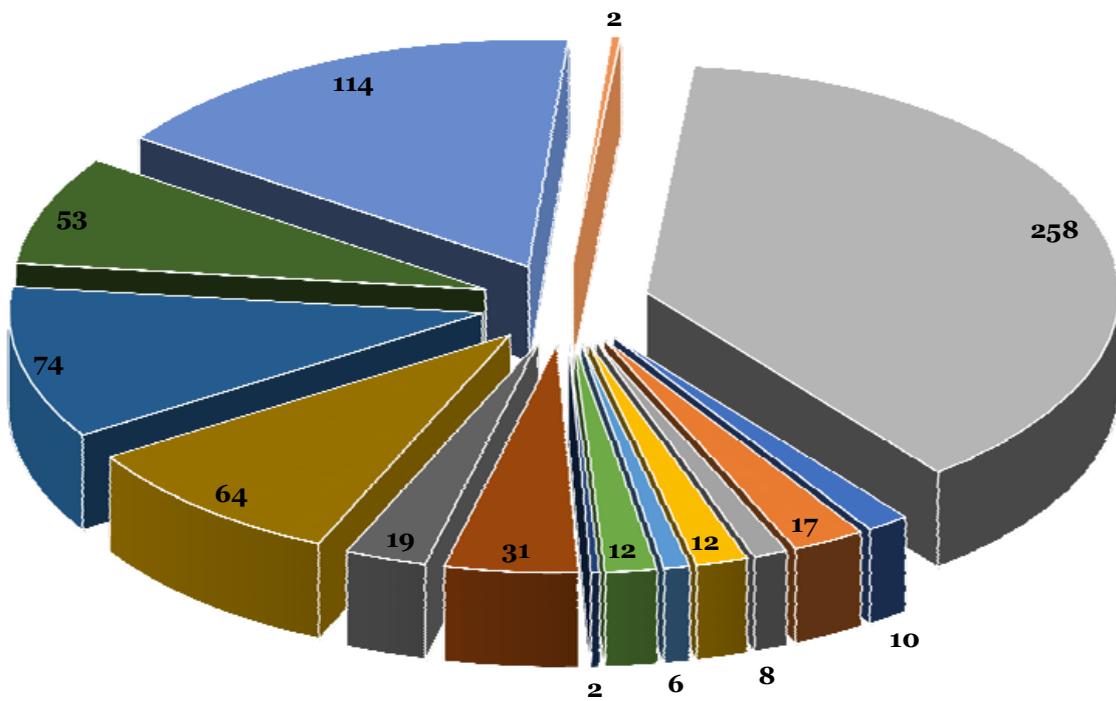
Situation of fines in 2017



Distribution of petitions received by N.C.C.D. during 2002-2017

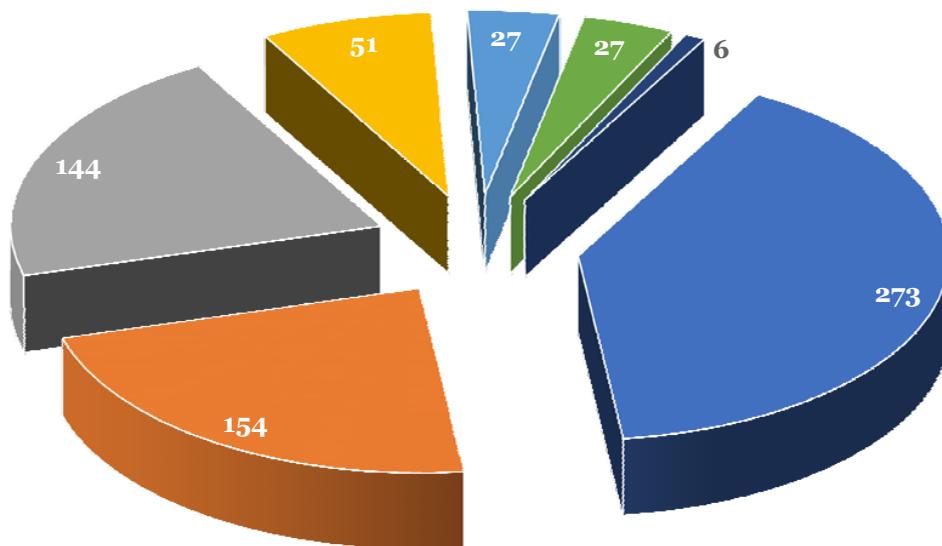
CRITERIA	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Sexual orientation	1	5	6	9	6	7	6	6	4	8	3	13	9	3	8	17
HIV infection	0	1	15	10	5	3	7	1	3	1	5	4	3	4	4	8
Language	0	2	1	2	2	7	11	13	16	10	43	38	27	27	25	12
Beliefs	4	12	23	19	8	10	14	13	4	2	15	14	13	4	20	6
Religion	2	9	9	11	8	12	15	6	6	5	5	11	18	14	7	12
Disadvantaged category	2	0	10	6	4	26	22	9	7	14	10	13	25	26	5	2
Age	6	11	14	17	10	10	24	10	9	16	5	18	21	22	31	31
Gender	3	14	13	9	11	22	32	9	18	15	21	31	46	28	29	19
Nationality	1	12	21	39	20	39	54	28	42	33	49	61	49	36	30	64
Disability	3	31	18	21	20	70	55	49	38	42	45	42	57	56	83	74
Ethnicity	34	66	45	85	69	82	62	62	54	62	61	66	42	61	81	53
Other	52	184	108	61	132	32	159	96	83	81	69	121	127	147	194	114
Race	0	0	1	1	2	0	0	2	1	0	0	3	2	1	3	2

Distribution of files in 2017 on the discrimination criteria



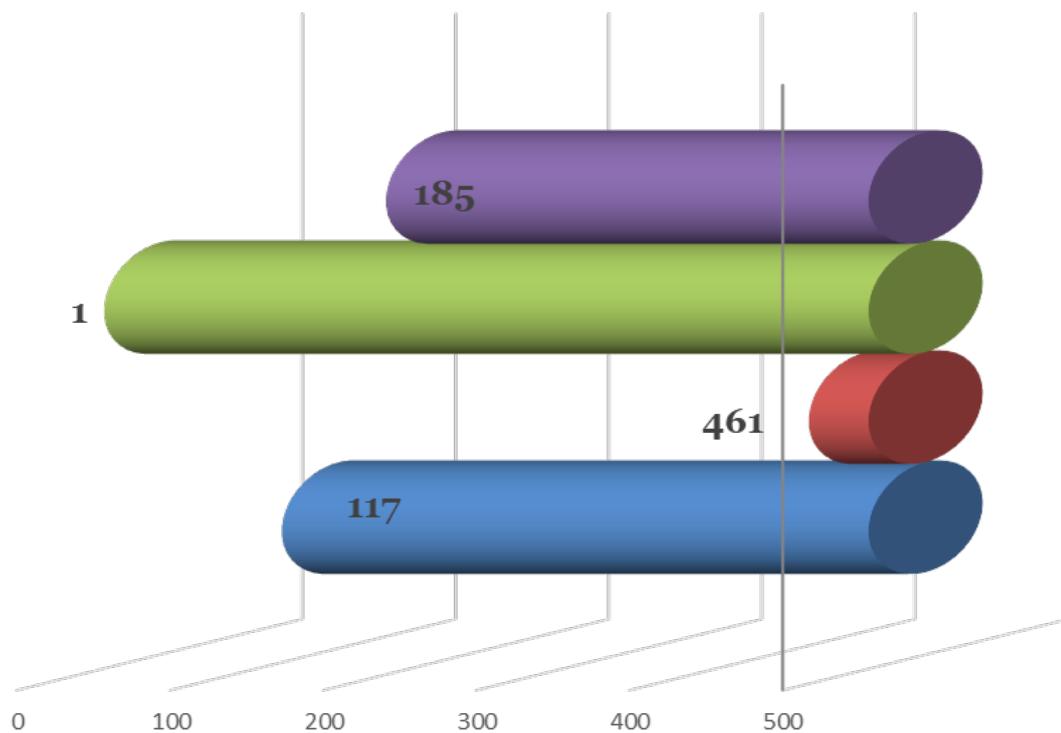
- Non-contagious disease
- Sexual orientation
- HIV infection
- Language
- Convictions
- Religion
- Disadvantaged category
- Age
- Gender
- Disability
- Handicap
- Etnicity
- Others
- Race
- Social category

Distribution of files in 2017 on the field of discrimination



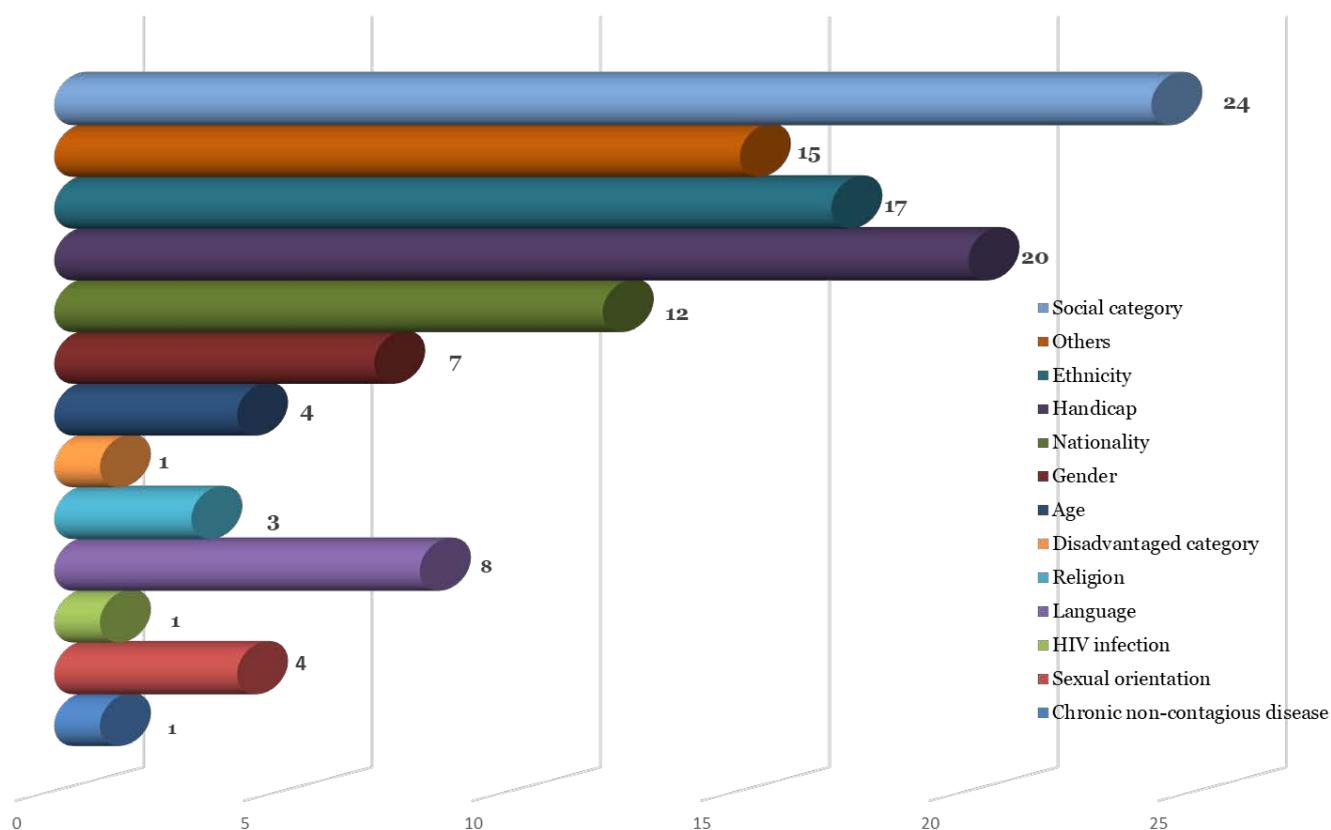
- Access to employment and profession
- Access to public services
- Personal dignity
- Access to education
- Access to public places
- Others
- Access to housing

Resolution activity in 2017

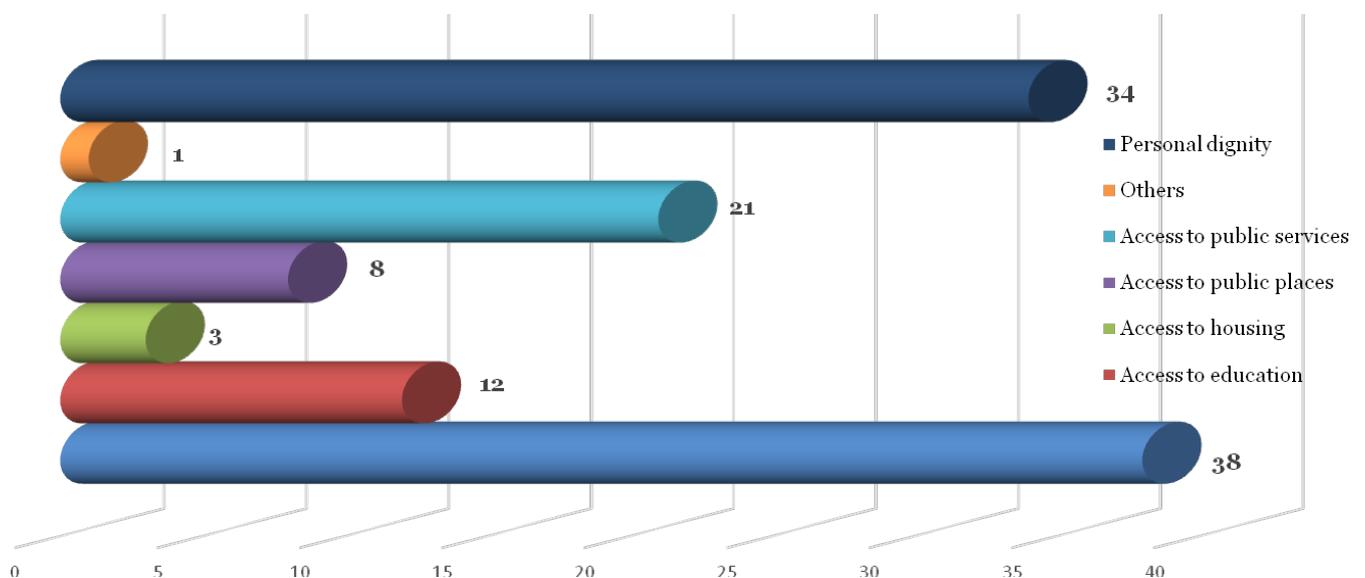


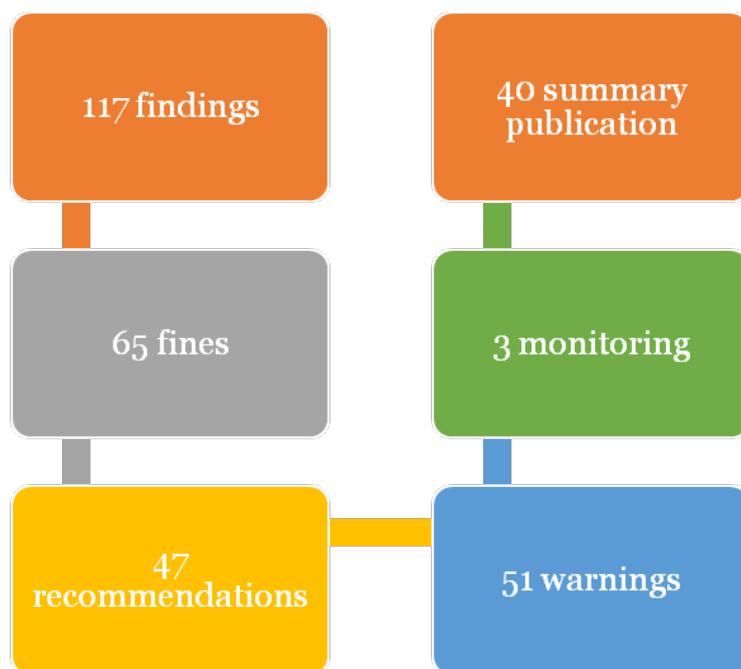
- lack of authority
- clerical error correction
- rejection
- admission

The admission solutions according to the discrimination criteria in 2017



The admission solutions according to the discrimination fields in 2017

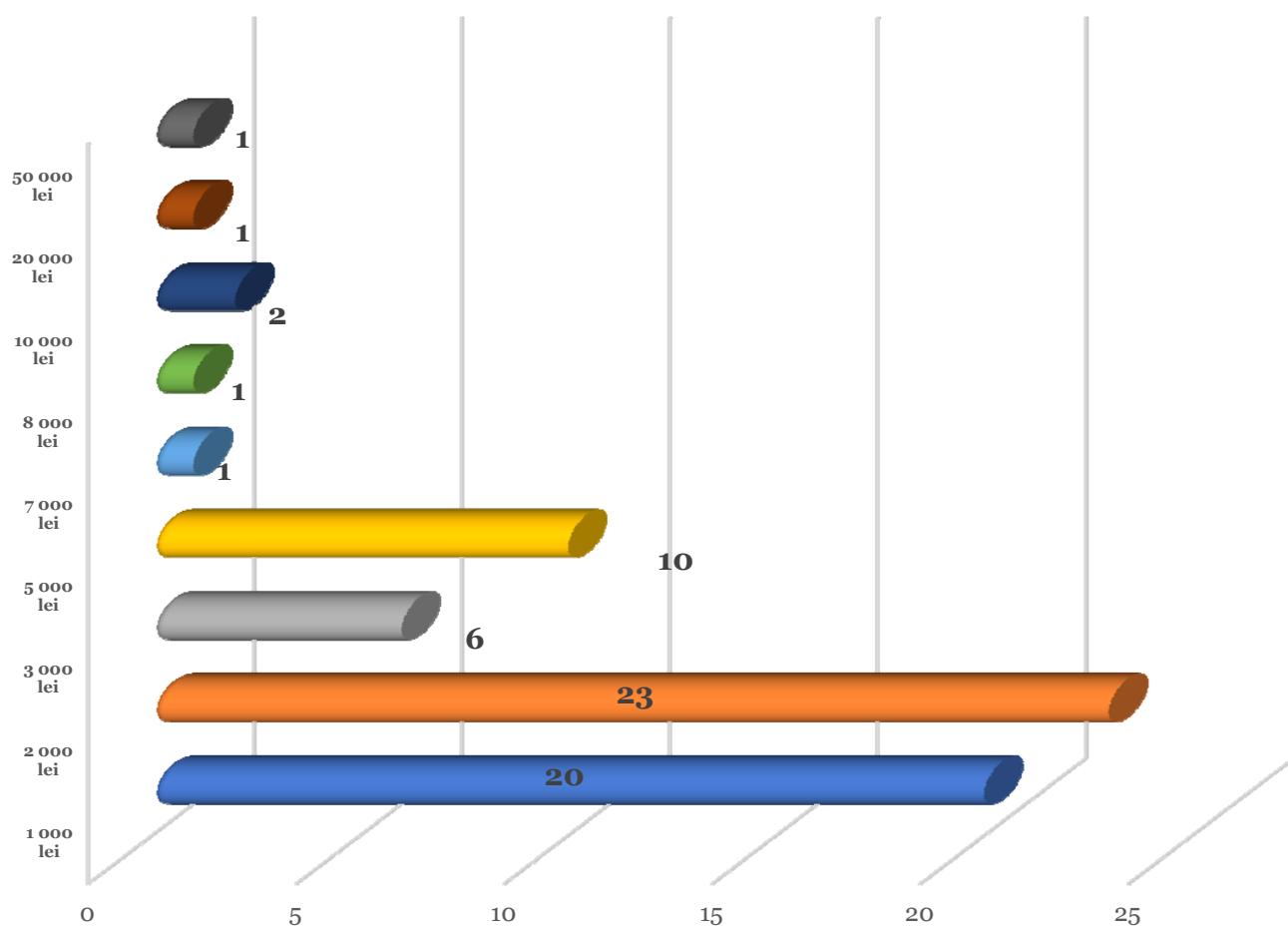


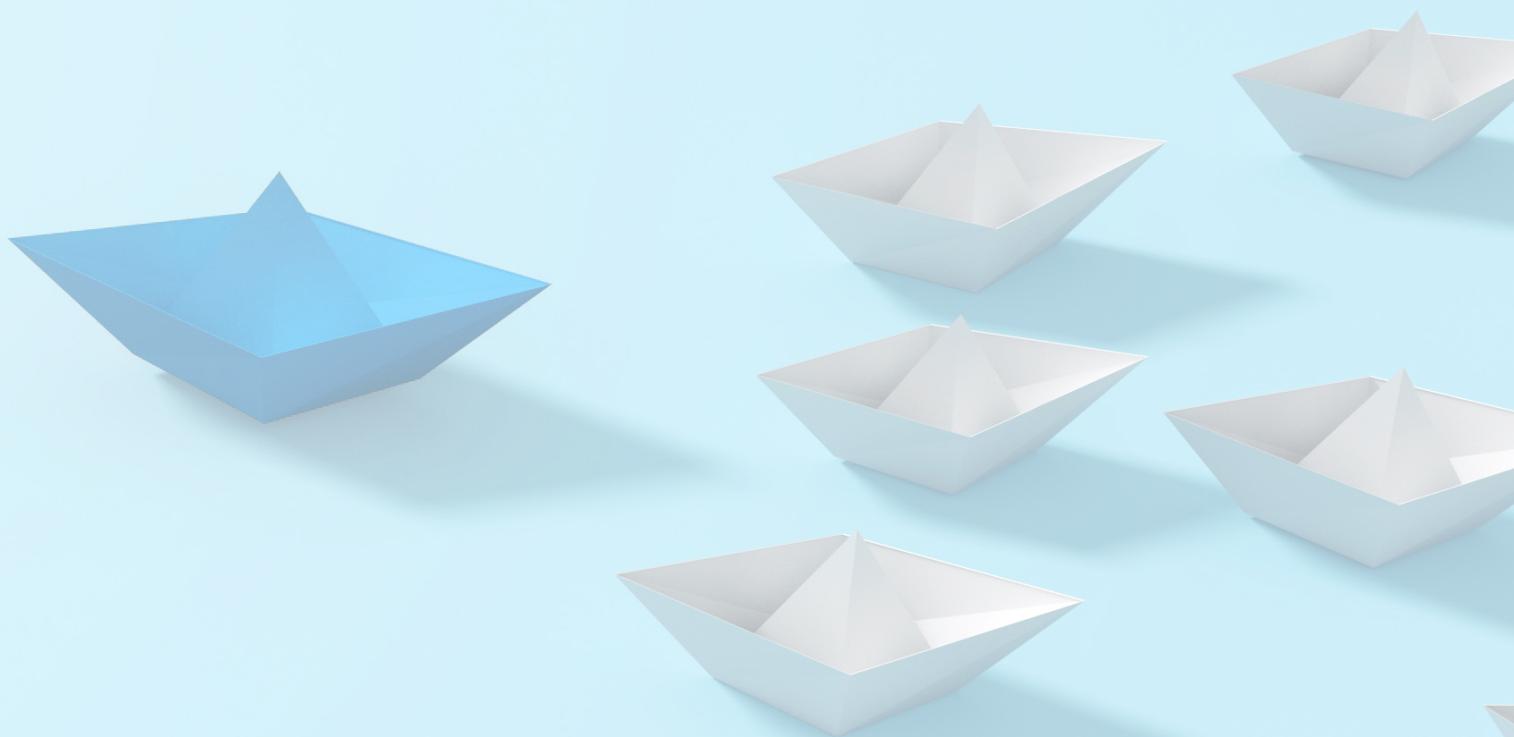


Criterion / Total Findings 2017	Fine	Recommendation	Warning	Monitoring	Publication of judgments summary
non-contagious chronic disease		1	1		
Sexual orientation	2	2	2		1
Language	1	7	14	2	12
Beliefs					
Religion	2	1	2		3
Disadvantaged category	1				
Religion	3	3			2
Gender	4	2	3		4
Nationality	10	2	2		3
Disability	13	9	5		5
Ethnicity	13	3	3		5
Other	5	6	6	1	3
Social category	11	10	12		2
HIV infection		1	1		
Race					
Total	65	47	51	3	40

Criterion / Total Findings 2017	Fine	Recommendation	Warning	Monitoring	Publication of judgments summary
Access to employment and profession	18	16	14	1	4
Access to education	9	6	1		2
Access to housing	2	1	1		2
Access to public places	6		2		1
Access to Public Service (TOTAL)	11	14	17	2	18
Administrative	6	12	15	2	15
Banking	2				2
Health	1		1		
Transport		1	1		
Legal					
Restaurant	1	1			
Hotel	1				1
Other	1				
Personal dignity	18	10	16		13
Total	65	47	51	3	40

Amount and number of fines in 2017





Legal representation
of the interests of the Romanian
National Council for Combating
Discrimination

Conventional assistance and representing the interests of the National Council for Combating Discrimination, both as regards procedural litigations, the object of which is circumscribed to the legality and righteousness control applied to the decisions of the Steering board and in general, is provided by the Legal Service, Contentious and Contracts Legal Directorate of the Council.

Exceptionally (contextual and optional), and following the express request of the N.C.C.D. 's President, the activity of representing the interests of the Council in courts can be assured, when it comes to matters of discrimination, also by those members of the Steering board licensed in legal sciences.

As ruled by the provisions of Article 20 of Government Ordinance no. 137/2000R, in conjunction with the provisions of the “Internal resolution procedure for petitions and referrals” published in the Official Gazette, Part I no. 348 of 06.05./2008, adopted on the basis of Article III, par. 1 - Chapter IV of Government Ordinance no. 137/2000R, petitions claiming discrimination facts are settled by the Romanian National Council for Combating Discrimination **which issues “rulings” – administrative and jurisdictional documents.**

The legal matters of the above-mentioned petitions are settled within an administrative and jurisdictional framework following a specific procedure which incorporates the core features of the special administrative jurisdiction: the replaceable and free nature of the jurisdiction, the functional independence of the jurisdictional authority, ensuring the right to defence and the guarantee of contradictory.

The examination of legality and solidity underlying the decisions of the Steering board of N.C.C.D. falls within the authority of administrative litigations courts (Appeal Courts as courts of original jurisdiction, and the High Court of Cassation and Justice as recourse court), in line with the provisions of Art. 20, paragraph (9) and (10) of Government Ordinance no. 137/2000, as republished, in conjunction with Art. 6 of the Law no. 554/2004 on contentious and administrative matters.

The legal deadline of appeal against such administrative and jurisdictional decisions is 15 working days from communication; otherwise they constitute a writ of execution.

Rate of promotion of the “Judicial Exam” to which the Steering board’ decisions were subject to in 2017

In 2017, the competent legal courts (such as Appeal Courts and the High Court of Cassation and Justice) had **423 pending cases** the subject matter of which was the legitimacy and righteousness control of the N.C.C.D. resolutions issued in accordance with the provisions of Art. 20 of Government Ordinance no. 137/2000, as republished.

Following the control applied to N.C.C.D. in 2017, the courts ruled in favour of N.C.C.D. **in 130 cases**, on the main matter on trial and/or appeals **and against N.C.C.D. in 35 cases in which the actions against the ruling were admitted.**

At the end of 2017, **365 cases were still pending** in courts (fund/appeal).

Thus, according to statistical results, the rate of promotion of the “judicial examination” of N.C.C.D.’s decisions in the course of 2017, the cases judged circumscribed, was still kept at a high level - approx. 80%.

Statistical results of judiciary action initiated for the purpose of tort civil liability

Introductory note:

Pursuant to Article 27 of Government Ordinance no. 137/2000R, any person who considers himself/herself discriminated against can file a request with a court, to request damages and the reinstatement of their situation prior to the alleged discrimination, or the cancellation of the situation created by the said discrimination, as per the common law. The person concerned has the obligation to prove the existence of facts which allow the existence of direct or indirect discrimination, and the person against whom such request has been filed has the burden of proving that the facts are not discriminatory. The trial takes place with the mandatory quote of the Council.

Therefore, through Government Ordinance no. 137/2000, the national legislature had the duty to establish in the field of non-discrimination, in addition to the administrative-contravention liability, the civil liability for tort, outlined by its reparatory function consisting in obliging the “discriminator” to compensate for the damage caused, namely the restoration in the previous situation, the elimination of all the harmful consequences of the discriminatory nature of the offense.

By regulating the legal procedure of “civil penalty” in the field of non-discrimination, competence exclusively belonging to the common court of law, the lawmaker aimed at judging legal actions on “granting remedies over loss caused by actions and facts of discrimination”, using the tort liability, with the involvement of the N.C.C.D. in the court proceedings.

The de jure Council's involvement in such court cases occurs under its particular capacity as "monitor of discrimination cases", "legal counsel", "expert" on non-discrimination matters without, therefore being invested with passive capacity in the trial and being protected from the statutory obligations as from court orders in such cases.

Such a procedural participation of N.C.C.D. in accordance with the provisions of Art. 27 of Government Ordinance no. 137/2000 in capacity as guarantor for the observance and enforcement of the non-discrimination principle as required by the Romanian legislation in force and the international agreements to which Romania is a party, as well as by the capacity as specialized body having (theoretical and practical) fundamental legal knowledge on equal rights and non-discrimination.

N.C.C.D. is involved in all trial cases pursuant to Art. 27 of the Government Ordinance no. 137/2000R irrespective of the subject-matter (work conflict, cancellation of administrative documents, contract termination, refusal to settle complaints or various claims, monetary entitlements etc.), related lato sensu to the non-discrimination principle, legal cases pending in courts with material and territorial jurisdiction in Romania.

In the context of a trial the advice-giving expert body (N.C.C.D.) may issue ex officio "framework viewpoints-directives" aiming to highlight the national and community anti-discrimination laws, the technical and judicial mechanism for interpreting and enforcing such laws or, as applicable, upon a court request in this sense (and only if it knows all the de facto and de jure aspects, including written evidence and testimonials in the case), it can issue "certified legal expert opinions", which in essence are case works valued as "legal counselling" in the field of equality of rights and non-discrimination.

Reporting Statistical Results

In 2017, N.C.C.D. was called by the court in capacity as consultative body - a "specialized expert" to formulate "expert opinions" (case works valued as "legal counselling") for a total number (related to the cases initiated both in this and before, but whose trial continued in 2017) of approx. 1132 court cases, the object of which was to incur civil liability for tort (payment of damages to the victim) as a result of violation of the non-discrimination principle.

Trial cases whose solutions were pronounced in 2017 are classified statistically in relation to their subject, as follows:

- ▶ approx. 723 cases having "monetary entitlements" as subject matter;
- ▶ approx. 712 cases in the category "other claims" (work-related conflicts, cancellation of administrative documents, refusal to settle the request, claims - other than wage entitlements/salaries - etc.).

Rulings issued in 2017 by the courts with authority in the law of tort-civil liability in cases involving discrimination (rulings related both to cases from 2017 and older, but which were settled in 2017), in which N.C.C.D. was involved as "specialized expert", are reported as follows:

- ▶ approx. 714 cases granted;
- ▶ approx. 870 cases dismissed.

Legal advisory and contracting activity

Within the National Council for Combating Discrimination, the activity of granting the legality opinion for both the legal documents of the entity and the other measures to be taken by the management of the institution, or by the other departments, was usually and constantly carried out through the Legal Division departmental structures in the exercise of their duties and estimating the involvement of patrimonial liability, as well as for the public procurement contracts, appropriate to the specific procedures.

Examples of case trials of N.C.C.D. from 2016

CASE NO. 1

I. The subject-matter of the case:

By a petition filed to the National Council for Combating Discrimination, the petitioner F.E.P. considered that it was discriminated against by imposing a 1,70-meter-height condition for men in the contest for the occupation of 49 vacant police officers in the public order structures - urban environment, public order - rural environment and dog master, in Suceava County, a specific condition set out in Annex no. 2 of the M.A.I. no. 140/2016 on the human resource management activity in the police units of the Ministry of Internal Affairs.

The petitioner also requested that discrimination be found and the consequences of discriminatory acts removed by sanctioning the institution that committed it and restoring the previous situation.

II. N.C.C.D. solution

By Decision no. 168/07.03.2017 issued in the file no. 712/2016, the National Council for Combating Discrimination decided the following:

- ▶ Ascertaining the act of discrimination provided by art. 2 par. (3) and Art. 7 let. a) from Government Ordinance no. 137/2000 on the prevention and sanctioning of all forms of discrimination;
- ▶ Recommends the Ministry of Internal Affairs to ensure equality in terms of employment and occupation;
- ▶ A copy of this trial will be communicated to the parties.

III. Judicial control applied to the N.C.C.D. Solution 168/07.03.2017 issued in the case file no. 712/2016.

In the action brought before the Bucharest Appeal Court - Section VIII Contentious Administrative and Fiscal Matters, the complainant the Ministry of Internal Affairs, sued the National Council for Combating Discrimination and the EFF, demanding the court to cancel the decision of the Steering board of the National Council for Combating Discrimination no. 168/07.03.2017 as unlawful and ungrounded.

III. 1. Summary of the criticisms by the complainant, the Ministry of Internal Affairs:

▶ The need to meet specific criteria is justified by the fact that they offer a minimum of guarantees as regards the police's compliance with the operational missions;

▶ The establishment of a criterion of height for the recruitment of candidates for admission to the educational institutions on the premises for the initial training of the police officers as well as of the candidates recruited by direct employment intending to acquire the police/military status in the Ministry of Internal Affairs is also necessary in view of the fact that the professional statutes applicable to the two categories of staff allow changing service relationships, for example by moving to any structure of the Ministry of Internal Affairs, the condition for police officers/military staff to meet the employment requirements in the job descriptions;

▶ The legitimacy and proportionality of establishing conditionality on height is reflected in the need to create within the Ministry of Internal Affairs a professional body to ensure the qualifications specific to the competencies and attributions of the ministry, taking into account the basic activity of its structures, respectively missions in the field of ensuring order public and combating crime, characterized by measures to address the negative social phenomena;

▶ The need to improve citizens' perception of the image, attitude and appearance of staff of the Ministry of Internal Affairs.

III. 2. N.C.C.D. Abstract of Defence:

It is clear that the applicant Ministry of Internal Affairs makes the choice/exercise of the profession of policeman conditional upon the imposition of a certain height on admission to educational institutions on the premises for initial training of police officers as well as on candidates who are recruited by direct employment who intend to acquire the status of policeman in the Ministry of Internal Affairs.

The measure ordered by the complainant Ministry of Internal Affairs in the need to create a professional body to ensure the qualifications specific to the competencies and attributions of the ministry, namely the establishment of the condition of height - 1.65 m for female candidates and 1.70 m for male candidates has no objective justification and the measures used are not appropriate and necessary since the application of this measure leads to a limitation

of the access of persons to admission to educational institutions on the premises of initial training of police officers or by direct involvement in the structures of the Ministry of Internal Affairs, he thus violated his right to education and work.

It should be left to the discretion of the candidates, regardless of gender and height, to assume the risks involved in the work to be carried out and the access of persons to admission to educational institutions on the premises of initial training of police officers and candidates recruited by direct employment intending to acquire the status of a police officer in the Ministry of Internal Affairs by imposing conditions that may lead to a differentiated treatment of candidates without objective justification and which ultimately would lead to violation of the right to education and the work of the persons concerned.

The performance of each candidate can and must be verified according to the work to be carried out, and only as a result of the skill test to make the difference. Such aptitude tests should be the only one able to assess the physical capacity of candidates to carry out the various missions entrusted to active policemen.

The applicant, the Ministry of Internal Affairs, merely invoked his right to apply a difference of treatment by reference to the specific nature of the field in which he acted without any argument as to the proportionality of such a measure. The applicant should have justified in particular the decision to impose the height limit both for male candidates and female candidates and how the candidates' height contributes to the specifics of the activities carried out by the police.

III. 3. Court Ruling:

In its Civil Ruling no. 4312/13.11.2017 issued in the case file no. 4654/2/2017 the Bucharest Appeal Court - Section VIII Contentious Administrative and Fiscal Matters dismissed as unfounded the petition for the appeal filed by the applicant Ministry of Internal Affairs against Civil Ruling no. 168/07.03.2017 issued by the National Council for Combating Discrimination in case file no. 712/2016, maintaining that administrative-judicial act as a justifiable and lawful one.

At the time this Report was drawn up, the Civil Sentence no. 4312 / 13.11.2017 pronounced in file no. 4654/2/2017 had not yet been communicated to our institution by the court.

CASE NO. 2

I. The subject-matter of the case:

Object of petition S.C.L. is the existence of discriminatory provisions in the Order of M.E.N.C.Ş. no. 5080/2016 for the approval of the Methodology regarding the organization and running of the contest for the positions of director and deputy director of the pre-university education units.

Thus, petition S.C.L. - a director with a delegation from the "Alexandru Papiu Ilarian"

National College in Târgu Mureş, claimed that she had been violated the right to participate in the contest for the position of director of this educational unit on the basis of kinship (relatives of first grade and husband/wife), given that her husband occupies the position of general school inspector at the County School Inspectorate of Mureş.

II. N.C.C.D. solution

By Decision no. 607/28.09.2016 issued in file no. 628/2016, the National Council for Combating Discrimination decided the following:

- ▶ the facts reported constitute discrimination, according to the provisions of art. 2 par. (1) in conjunction with art. 6 from Government Ordinance no. 137/2000 on the prevention and sanctioning of all forms of discrimination (unanimity of votes);
- ▶ the applicant party is sanctioned with a warning according to art. 7 from Government Ordinance no. 2/2001 on the legal regime of contraventions;
- ▶ it is recommended to the respondent to remedy the situation, namely to modify the methodology by which the contest for the positions of directors and deputy directors is organized in all pre-university education units, eliminating the discriminatory criterion in art. 21 par. (5) of the M.E.N.C.Ş. no. 5080/2016 and recommends that a circular be issued to all school inspectorates in the country, within the meaning of N.C.C.D.'s decision;
- ▶ the situation will be monitored, the complainant having to prove the fulfilment of the task in the recommendation of N.C.C.D. (unanimity of votes).

III. The judicial control applied to the N.C.C.D. Solution no. 607/28.09.2016 issued in the case file no. 628/2016.

By the action initiated, the applicant, the Ministry of National Education and Scientific Research, sued the National Council for Combating Discrimination, requesting the court to order the admission of the action as it was formulated, the cancelation of the decision of the National Council for Combating Discrimination no. 607 / 28.09.2016 pronounced in file no. 628/2016 and the maintenance of the provisions of Art. 21 par. (5) of the Methodology for organizing and conducting the competition for the positions of director and deputy director of the pre-university education units, approved as an Annex to the Order of the Ministry of Education and Research. no. 5080/2016.

III.1. Summary of the complainant's criticism Ministry of National Education and Scientific Research:

- ▶ Throughout the judicial investigation conducted by N.C.C.D. the petitioner's fundamental right to defence, as regulated by Art. 24 of the Romanian Constitution;
- ▶ Although the joint law expressly states that the judgments delivered have inter partes litigantes effects, the N.C.C.D., by requiring a recommendation to issue a circular

to all county school inspectorates within the meaning of the decision given, rendered the erga omnes applicability decision, which is an excess of power, which seriously violates the provisions of art. 2 par. (1) and art. 435 par. (1) Code of Civil Procedure;

- ▶ There is no legal basis justifying solving the petition in the so-called “emergency procedure”;
- ▶ By the judgment, N.C.C.D. censured the legality of the contested administrative-normative act by considering that it adds to the law;
- ▶ The criterion introduced in the methodology by art. 21 par. (5) is by no means a measure of discrimination of the petition on the basis of kinship, but on the contrary represents a measure to prevent an imminent situation of conflict of interest from the perspective of art. 10 corroborated with art. 175 C.p.

III. 2. N.C.C.D. Abstract of Defence:

- ▶ The eventuality of finding irregularities in the administrative-judicial proceedings conducted before N.C.C.D. cannot lead to the cancellation of the decision no. 607/28.09.2016, since, before the court of first instance, the complainant, the Ministry of National Education and Scientific Research has the possibility to defend its point of view on the issues he was accused of in the petition, thus respecting both the principle of contradictory and the fundamental principle of the rights of the defence, which is likely to eliminate the alleged harm to the N.C.C.D.;
- ▶ Based on the provisions of art. 79 of the Internal Procedure for Solving Petitions and Notices of N.C.C.D. may, by decision adopted, include a non-legally binding guideline in order to prevent breaches of the principle of non-discrimination, so that the issue of a circular to all county school inspectorates for the purposes of the decision does not constitute an excess of power;
- ▶ N.C.C.D. has no jurisdiction to rule on the legality and righteousness of O.M.E.C.Ş. no. 5080/2016, which is the task of the courts, but in the case deducted from the judgment, N.C.C.D. has analysed this administrative normative act in its capacity of guarantor of observing and applying the principle of non-discrimination and equal treatment, exclusively through the observance by the issuer of the order of the two principles;
- ▶ In the case deducted from the judgment, it is obvious that the situation presented in art. 6 from Government Ordinance no. 137/2000 regarding the prevention and sanctioning of all forms of discrimination in the sense that the applicant Ministry of National Education and Scientific Research determines the free choice/exercise of the position of director and deputy director of the pre-university educational institutions by prohibiting the relationship of first degree spouses and relatives, conditioning which had an effect on the SCL claimant restriction, removal of recognition, use or exercise on equal terms of the right to work, the right to professional promotion and the right to personal dignity.

III. 3. Court Ruling:

Bucharest Appeal Court - Section VIII Contentious Administrative and Fiscal Matters – by Civil Ruling no. 1764/16.05.2017 issued in file no. 7004/2/2016, dismissed as unfounded the action brought by the applicant Ministry of National Education and Scientific Research in contradiction with the defendant National Council for Combating Discrimination and intervener S.C.L. and maintains as lawful and valid the Civil Ruling of N.C.C.D. no. 607/28.09.2016 issued in file no. 628/2016, on the following grounds:

- ▶ Through the provisions of art. 21 par. (5) from O.M.E.C.Ş. no. 5080/2016, married or kinship-related persons of first degree with a person with whom they are in management, guidance or control, at any level, in a pre-university education unit, school inspectorate, the Teaching Staff House, palaces and clubs for children and pupils, school sports clubs are discriminated against in comparison with those not in this relationship. Therefore, the relationship between spouse and first degree relationship is a clear criterion of discrimination. Also, its effect is undoubtedly the restriction of the right to work and professional promotion;
- ▶ The mode chosen by the applicant in the M.E.N.C.Ş. as regards the prevention of a conflict of interest, the Court finds that this is neither appropriate nor necessary as long as the Law on National Education has established a single other incompatibility during the period of office of a director or deputy director, of a pre-university education institution, namely that provided by art. 257 par. (4) concerning the appointment of a president or a vice-president of a political party;
- ▶ The attainment of the intended purpose can be achieved by methods that can only prevent the effective exercise of control, monitoring and evaluation activity between spouses or close relatives and not the occupation of the posts themselves by the persons in these relationships.

Civil Ruling no. 1764/16.05.2017 issued by the Bucharest Court of Appeal - Section VIII Administrative and Fiscal Contentious Division in file no. 7004/2/2016 remained final through its non-rectification by the Ministry of National Education and Scientific Research.

CASE NO. 3

The subject-matter of the case:

I. The petition's considerations:

Through the complaint filed with the N.C.C.D. , the petitioner considered that the publication of the articles in the media and on the website of the complainant had impacted personal dignity.

II. N.C.C.D. Abstract of Defence/Solution:

After analysing all the documentation in the file, the specialized papers (hearings, requests of points of view), the Steering Board of N.C.C.D. by Civil Ruling no. **290/10.05.2017** found that *the Acts notified constituted discrimination, according to the provisions of Art. 2 par. 1 and art. 15 by Government Ordinance no. 137/2000R and sanctioned in the amount of 1000 lei, according to the provisions of art. 26 par. 1 from Government Ordinance 137/2000R.*

III. Request to sue

By the application filed at the Court of Appeal of Brasov - the Administrative and Fiscal Appeal Section, the defendant S.C. Profiton S.R.L., in contradiction with the defendants N.C.C.D. and J.T., requested the annulment of the Civil Ruling no 290/10.05.2017 pronounced by the Steering board as unlawful and ungrounded.

In particular, the complainant mentions that he does not take responsibility for the content of the posts, but points out that allegations that are contrary to law, advertising, obscene, inadequate, as well as defamatory will be erased.

IV. N.C.C.D. Abstract of Defence:

In reply, the N.C.C.D., through the legal counsel, argued that the complainant's allegations, which are the subject of the petition, are not protected by art. 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

With regard to the subject-matter of the case, it cannot be isolated that the use of the term "Szekler" is of a discriminatory nature, but the way in which the situation covered by the articles is presented is capable of retaining a distinction based on ethnicity/nationality, which has the effect of interfering with the right to personal dignity, within the meaning of the provisions of art. 2 paragraph 1 in conjunction with art. 15 from **Government Ordinance no. 137/2000**, republished.

This form of expression promotes hatred based on intolerance and **should therefore be sanctioned.**

Concerning the claim that "the applicant does not assume responsibility for the posts", it should be noted that the provisions of Art. 12 of the Law no. 365/2002 provide for a waiver of liability for the information society service provider subject to certain conditions. From this perspective, the interpretation given by the CJEU in Case C-291/13, Directive 2000/31/EC regarding the definition of the service provider, namely information society services and limitation of liability under Articles 12-14 of Directive 2000/31/EC.

Thus, the Court has in principle established that *"the limitations on civil liability set out in Art. 12 to 14 of Directive 2000/31 do not concern the situation of a publishing company which has a website on which the electronic version of a newspaper is published, on the other hand, paid on the revenue generated by the commercial advertising broadcast on this site, insofar as it is aware of the information it publishes and exercises control of it,*

regardless of whether the access to the site is free or against cost. “

Moreover, it is apparent from recital 42 in the preamble to Directive 2000/31 that the liability exemptions provided for in that directive cover only cases in which the activity of the information society service provider is purely technical, automatic and passive, which implies that the supplier does not know or control the information transmitted or stored (see Google France and Google, C-236/08-C-238/08, EU: C: 2010: 159, paragraph 113).

In the case before the court, we note that the applicant is not a provider of services of the information society in order to benefit from the provisions of Art. 12 of Law 365/2002, which is in fact the administrator of a web page, perspective from which he has control over the information that appears on the site.

Also, in this context, it is irrelevant to mention the denial of any responsibility of the site administrator for the content of the materials to be published, which is not such as to exonerate the petitioner from liability.

In the case of the court, as stated above, the complainant does not have the capacity to simply deliver the information, having the possibility to censor the posts on the site, but has failed to act in this respect.

V. Solution of the court of first instance

Braşov Court of Appeal - Administrative and Fiscal Litigation Division, by Civil Sentence no. 172/08.11.2017 dismissed the action in administrative litigation formulated by the applicant S.C. Profiton S.R.L. in contradiction with the defendants, the National Council for Combating Discrimination and J. T. having as object the annulment of the Decision no. 290/10.05.2017 pronounced by the defendant National Council for Combating Discrimination.

VI. The solution of the appeal court

At the time of elaboration of the Report, the case is in the filing procedure before the High Court of Cassation and Justice - the Administrative and Fiscal Court, following the appeal promoted by S.C. Profiton S.R.L.

CASE NO. 4

The subject-matter of the case:

I. The petition's considerations:

Through the petition filed at N.C.C.D. , the petitioner considered discriminatory the disciplinary dissolution of the employment contract for a pregnant person. It was found that the pregnant petitioner (in the fourth month) was discharged the labour contract for disciplinary misconduct, without respecting the necessary steps for such a measure.¹

¹ See address ***P11476/53475/CRM/14.09.2016*** ITM Bucureşti

II. The solution ordered by N.C.C.D.

After analysing all the documentation in the file, the specialized papers (hearings, requests of points of view), the Steering Board of N.C.C.D. by decision no. **56/25.01.2017** found that **the termination of the pregnant plumber's employment contract constitutes discrimination according to art. 2 par. 1 and art. 7 lit. a) from Government Ordinance no. 137/2000R** and sanctioned S.C. Sortec Lux S.R.L. in the amount of 10,000 lei, according to the provisions of art. 26 par. 1 from Government Ordinance 137/2000R.

III. Request to sue

By the application filed at the Bucharest Court of Appeal - Section VIII Administrative and Fiscal Appeal, filed by S.C. Sortec Lux S.R.L., in contradiction with the defendants N.C.C.D. and G.F., requested the annulment of the decision no. 56/25.01.2017 pronounced by the Steering Board as illegal and ungrounded.

In particular, the complainant mentions that the defendant did not notify her that she was pregnant.

The applicant claims to have been aware of the defendant's pregnancy status when handing over the decision to terminate the employment contract when the defendant has produced a certificate showing that she is pregnant during the fourth month.

IV. N.C.C.D. abstract of defence

In reply, N.C.C.D. argued that a differential treatment was invoked as regards the dissolution of the pregnant woman's petitioner.

Thus, it is remembered that the petitioner was subjected to discriminatory/harassing treatment because of her pregnancy status (in the fourth month of pregnancy).

The state of pregnancy, according to international treaties in the field (Directive 76/207/EEC) and domestic law (Law No 2002/20002, GEO 96/2003), is a different situation for women, which must be treated differently compared to other situations, in the sense that, during this time, the salary incomes cannot be changed or the employees' report/employment contract cannot be changed for any reason.

Through this differential treatment/harassment, applied by the employer, the petitioner was subject, on the one hand, to intimidating, hostile, degrading treatment and, on the other hand, to discriminatory treatment.

The termination of the labour contract of the pregnant woman is discrimination according to art. 2 par. 1 from Government Ordinance no. 137/2000, being an act of exclusion based on pregnancy/sex² which had the purpose or effect of restricting the use and exercise on equal terms. Moreover, the petitioner was violated his right to work, the criterion of differentiation being his pregnancy/sex.

² It is stated in the case law of the European Court of Justice that maternity/pregnancy must be classified as „sex”.

In accordance with O.U.G. 96/2003, the employer has the obligation to observe the principle of protection of maternity and the safety of pregnant women or those who have resumed their activity after the period of hospitalization, regarding the risks that may affect their health and safety. Maternity status cannot be a reason for discrimination. And by the provisions of art. 10 par. 6 let. A of Law no. 202/2002, the dismissal is forbidden while the employee is pregnant.

Referring to the evidence produced by the parties, we note that the allegedly discriminatory party does not submit any evidence to overturn the presumption of the existence of the offense as presented by the petitioner, thus failing to oblige the overturning obligation of the burden of proof, according to the provisions of art. 20 par. 6 of Government Ordinance no. 137/2000, republished updated.

Although the applicant did not prove that she had informed the employer of her pregnancy status, however, given, first, the fact that the pregnant woman's pregnancy was already visible and, on the other hand, the employment contract, without complying with the legal conditions³, restrains the creation of the presumption of discrimination.

In view of all these considerations, it was noted that the differential treatment applied to the complainant without objective and reasonable justification constitutes discrimination as defined by Government Ordinance 137/2000.

V. Solution of the court of first instance

Bucharest Court of Appeal - Section VIII Administrative and Fiscal Contentious Division, by Civil Sentence no. 2722/29.06.2017 dismissed the administrative appeal filed by the applicant S.C. Sortec Lux S.R.L. in contradiction with the defendants, the National Council for Combating Discrimination and G.F. APPLICATION for the cancelation of the Decision no. 56/25.01.2017, adopted by the defendant National Council for Combating Discrimination.

VI. The solution of the appeal court

At the time of elaboration of the Report, the case is in the filing procedure before the High Court of Cassation and Justice - the Administrative and Fiscal Court, following the appeal promoted by S.C. Sortec Lux S.R.L.

³ By address **P11476 / 53475 / CRM / 14.09.2016**, ITM Bucharest noted that „*For your dismissal under the provisions of Art. 61 lit. 1 of the Labor Code, **the employer did not prove the observance of the provisions of art. 247-252** of the Law no. 53/2003, Labor Code, republished, with subsequent amendments and completions.*”

Report on the activity of the Inspection Service in 2017

Pursuant to the provisions of Art. 41 par. (1) of the internal Procedure for solving petitions and referrals, “the file owner disposes upon investigating, if case, after studying the petition and proofs submitted”. Therefore, the file under investigation, accompanied by the resolution of the file owner, is sent to the Inspection Service within the Legal Department in view of checking some unclear aspects and collecting data, witness statements and evidence necessary for solving the situation. After the control, the investigation team writes a report accompanied by the documentation resulting from the control.

Statistical data on files investigated by the Inspection Service in 2017

In 2017, the Steering board submitted 30 files to the Inspection Service. In view of observing the resolutions of file owners and achieving the control objectives, 39 investigations were conducted (some files required several trips), out of which 24 in Bucharest and Ilfov county, 3 in the North-West Region (2 in Cluj county), 2 in the South-East Region (2 in Vrancea county, 1 in Galați county, 1 in Buzau county, and 1 in Constanța county), 1 in the Muntenia-South Region (1 in Dâmbovița county and 1 in Giurgiu county), 1 in the North-East Region (1 in Iași county), 1 in the West Region (Hunedoara county), in the Oltenia South-West Region (1 in Dolj county, 1 in Gorj county) and 2 in the Centre Region (2 in Sibiu county).

Out of the 30 verified files, in 26 (84% of the total) of them the alleged fact of discrimination took place in urban areas and the rest of 5 (16%) in rural areas. In 24 files (69%), the defendant was a legal entity, and in 11 (31%) the defendant was an individual. Some files had both legal entities and individuals as defendants.

In what concerns the discrimination criteria, the situation of files investigated is as follows: ethnic origin 8 (22%), disability 6 (16%), nationality 2 (6%), sexual orientation 1 (3%), age 3 (8%), political beliefs 2 (6%), no criteria 2 (6%), - (one of the files had two criteria).

Report on the 2016 activity of the Territorial Department Structures

MUREȘ TERRITORIAL OFFICE

Between January and November 2017, **74** hearings were granted to people interested by the N.C.C.D. activity at the level of Mureș Territorial Office.

Criteria and fields upon which the N.C.C.D. territorial representative provided expert legal counsel: language, ethnicity, disability, non contagious chronic disease , age, religion, belonging to a disadvantaged category, others.

In 2017, at the level of the Mureş Territorial Structure, **29** petitions received were regarding potential acts of discrimination, which were then sent to the Steering Board of N.C.C.D. .

The activity of collaboration with the public authorities, with legal and natural persons to ensure the prevention and elimination of all forms of discrimination, namely the promotion of N.C.C.D. at a local level, was realized through various participations in meetings, conferences, seminars organized in collaboration with local public authorities and legal persons in the field of human rights in Mures County.

BUZĂU TERRITORIAL OFFICE

In 2017, at the level of Buzau Territorial Structure, special hearings were given to **104** persons, showing a threefold increase compared to the previous year.

The criteria and fields that were the subject of the activity of providing specialized legal counsel were: ethnicity, disability, sexual orientation, equality in economic activity and employment.

Also, a special audience was given in 10 active N.C.C.D. cases.

In 2017, at the level of the Mureş Territorial Structure, **5** petitions received were regarding potential acts of discrimination, which were later submitted to the N.C.C.D. 's Steering board.

Among the activities to prevent the phenomenon of discrimination are the visits to promote the principle of non-discrimination at the level of several City Hall in Buzău County, especially in the localities where there are a significant number of Roma citizens (Verneşti, Calvini, Rm Sarat).

Also, the representative of the Buzau Territorial Structure participated in all the actions of the Buzau County Council on Equal Opportunities, as well as at the meetings of the respective commission within the County Council.

At the same time, a partnership with the County School Inspectorate was carried out through which an information program on anti-discrimination legislation will be carried out. Also in this context, a program of work with the school units in Buzău County was established, with the purpose of resuming the campaign called "What label do you wear?"

Student internships in 2017

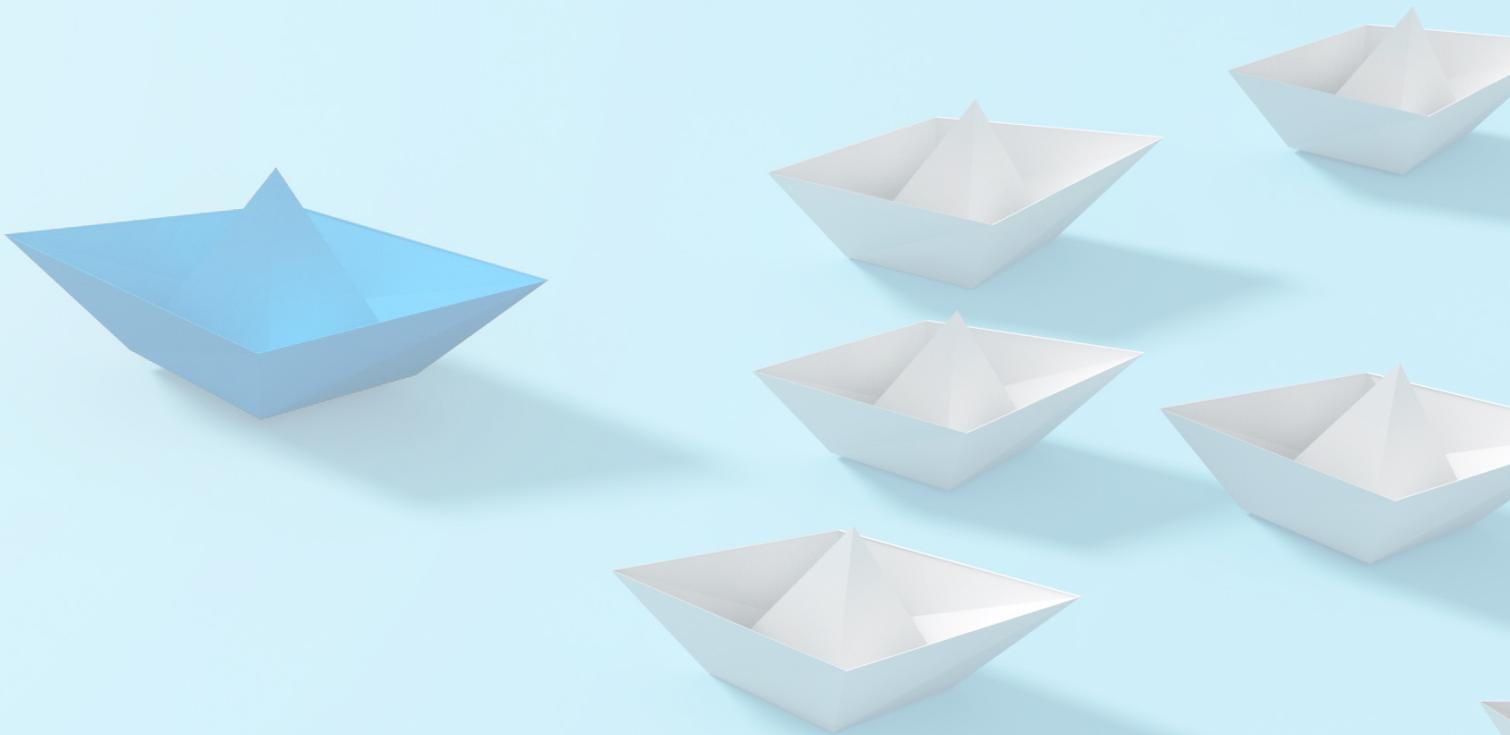
Over the year 2017, the Legal Department - Legal, Administrative Law and Contracts Office, together with the Programs and International Affairs Direction within the Romanian National Council for Combating Discrimination provided internships for students of the following higher education institutions: Law Faculty, Political Sciences Faculty within Bucharest University, Legal and Administrative Sciences Faculty - "Dimitrie Cantemir" Christian University of Bucharest, University Titu Maiorescu – Faculty of Law.

As part of this activity, the internship tutors from within the N.C.C.D. Legal Department provided students with information on discrimination, discrimination types, the Romanian national anti-discrimination council's organization and rules of functioning, responsibilities, petition resolution process, penalties, programs organized in view of preventing and fighting discrimination, as well as the procedure for appealing N.C.C.D. decisions in court. Students participating in the internship were offered the possibility to take part in the court meetings, together with the N.C.C.D. legal counsel, in trials on appealing N.C.C.D. decisions.

The internship also included practical exercises so that students acknowledge negative effects of discrimination on people. Students who chose to broaden their knowledge on the functioning of discrimination prevention and fighting mechanisms were delighted to discover, with the help of the counsel within the **Programs and International Relations Division**, responsible for internships, the cleverness and creativity of the prevention methods.

Thus, after a psychological and sociological incursion in the field in order to define and describe the way discrimination works, basic concepts and their limits were examined - tolerance, human rights, equity, affirmative policies, rituals, traditions, freedom of speech, equal opportunities, freedom of speech, diversity - noting both the complexity and possible changes of the sense of the discrimination concept in the globalization millennium. Several video documentaries were played in which the characters were part of vulnerable groups. Students were particularly attracted to the role of personal attitude in preventing discrimination, to the attitude sources of discrimination and by discrimination effects. Role plays also helped them experience solidarity (as a positive effect of discrimination), get aware of the reasons of being educated, have common sense and good taste, as well as the need to act responsibly when facing the vicious circle of discrimination - the discrimination that leads to discrimination.

Upon the end of the internship, participants received internship certificates from the N.C.C.D. attesting their interest in the field, institution and tutor teachings, the fact that they studied all necessary material and requested information they needed to help them grasping the complexity of the discrimination combat phenomenon.



Examples of the Council Steering board's case laws

1. Equity in economic activities, employment and profession

The petitioner indicates that the complainant company and the representative union negotiated an Article (Article 97) in the Collective Labour Agreement (CCM) 2015-2016, contrary to the sanctions of N.C.C.D. and the provisions of the court decision that render them conditional on the employers' initiative or the representative union in order to be able to enjoy the right to negotiate the employment contract.

- ▶ The petitioner calls into question the decision no. 342/2015, whereby the National Council for Combating Discrimination found the facts of discrimination against the members of the petitioner union.

- ▶ it did not comply with the legal provisions, which is why, while negotiation requests are being formulated, the employers' association and the representative union condition the right of their "initiative".

- ▶ the article complained of provides as follows: "Negotiation of individual labour contracts is necessarily triggered by the initiative of one of the parties to the Collective Bargaining Agreement".

- ▶ Thus, the membership of other uninvited union organizations makes the employers condition this only if there is "initiative" on the part of the "signatory parties" of the CCM.

The governing council of the National Council for Combating Discrimination (N.C.C.D.) finds that the petitioner is conditioned by the patronage initiative and the representative union regarding the right to negotiate the labour contract (Article 97 of the CCM 2015-2016).

Rights granted by the employer only to the representative union under the Collective Bargaining Agreement should be extended to unrepresentative trade unions under the terms of the Social Dialogue Law. Article 97 of the CCM provides that "Negotiation of individual labour contracts is necessarily triggered by the initiative of one of the parties to the Collective Bargaining Agreement." In this sense, the membership of other non-obedient trade unions makes the employer conditional on this only if there is an "initiative" from the CCM "signatory parties". The Steering board notes that the CCM signatories are the employer and the representative union.

Favouring the representative union in a number of areas, granting rights is discriminatory as it is a distinction, exclusion, preference on the basis of trade union membership, which has the effect of restricting the trade union rights and those stipulated in the Collective Labour Agreement.

Regarding the aspects discussed above, the Steering board, through the unanimous votes of the members present at the meeting, finds that the conditions of the direct discrimination deed provided by art. 2, paragraph 1, corroborated with the provisions of art. 7 lit. f) from OG no.137 / 2000, republished and decides to sanction the employer (S.N. Mihail Kogălniceanu

International Airport - Constanța S.A.) with a fine of 5,000 lei, by virtue of art. 26 par. 1 by GOVERNMENT ORDINANCE no. 137/2000, taking into account the following aspects:

- ▶ discrimination was targeted at a group of people;
- ▶ discrimination is likely to affect the independent activity of unrepresentative trade unions and create a monopoly for only one representative trade union;
- ▶ the first claimant has the status of employer, who has clear obligations towards the employees and their representatives.

The Steering board obliges the first respondent to publish the summary of this judgment, with the exclusion of personal data, in a national circulation newspaper.

In view of the above, under Art. 20 par. (2) from Government Ordinance 137/2000 regarding the prevention and sanctioning of all forms of discrimination, with the subsequent amendments, with the unanimity of the votes of the members present at the meeting, the Steering board decides:

1. Favouring the representative union in a number of areas, granting rights is discriminatory according to art. 2 par. 1 and art. 7 lit. f) from Government Ordinance no. 137/2000;
2. Apply the fine of 5,000 lei to S.N. Mihail Kogalniceanu International Airport - Constanta S.A., Tudor Vladimirescu Street no. 4, Mihail Kogalniceanu nr. 4, Constanța County, J13 / 2498/1998, Tax identification no. RO11212645 according to art. 26 par. 1 by Government Ordinance no. 137/2000;
3. Obligates the first person to publish the summary of the present judgment, excluding personal data, in a national circulation newspaper according to Art. 26 par. 2 of Government Ordinance no. 137/2000.

2. Ethnic origin (Roma). Access to services

The petitioner claims that on March 23, 2016, he entered the premises of the complainant to buy a cake for the minor accompanied by his 3-year-old grandson. He mentions that he was not served because the person employed there told him that the confectioner's patron (the second party complained) banned serving the Roma.

The Steering Board of the National Council for Combating Discrimination (CNC.D.), regarding the first head of claim, finds that the internal regulation of the claimed company is discriminatory. As regards the second head of claim, the Steering board finds that the applicant was refused access to the services provided by the claimant, on the basis of his membership to the Roma people.

The Steering board acknowledges that the representative of the complainant company admitted that the Internal Regulations are very demanding and that the products can only be served on the premises if there is a minimum consumption of 300 lei/person. It is also noted that this regulation was imposed as a result of numerous scandals involving Roma people in the city.

The Steering board finds that, through the provisions of the Regulation, the criterion of selecting the clients contained in art. 1 “... the management of the company has decided to serve in the local consumption of at least 300 lei ...” disadvantages certain persons, compared to other persons, without objective justification. The imposition of the requirement of a minimum consumption of 300 lei / person in order to be able to consume the products in the confectionery is indirect discrimination, the party complained of treating different persons who do not benefit from this amount, in contradiction with the legislation in the field.

The minimum amount included in the regulation is not objectively justified in relation to the standard of living of the Romanian society. It is notorious that food prices are high compared to the standard of living, which is half that of the countries of Europe. The Steering board also takes the view that the imposition of the above-mentioned requirement discourages any person who does not benefit from that amount from using the services provided by the confectionery claimant in the present case on an equal basis.

To analyse this claim, it was noted that there were numerous witness statements confirming the petitioner’s claims, namely that Roma are not allowed to consume cakes in the confectionery.

In this regard, the Steering board finds that the complainant has shown a behaviour that has led to the creation of an intimidating framework for the petitioner and the Roma, violating the right to dignity and the right to access, on an equal footing, services provided by providers. These facts constitute discrimination according to the provisions of art. 2 paragraph 1, art. 10 lit. f) and art. 15 from Government Ordinance no. 137/2000, republished.

The Steering board decides:

1. Failed by the first request for referral, regarding the criterion imposed in art. 1 of the Internal Regulations “... the management of the company decided to serve in the local consumption of at least 300 lei ...” The Steering board finds that the facts constitute discrimination, according to the provisions of art. 2 paragraph 3 and art. 10 lit. f) from Government Ordinance no. 137/2000, republished, and decides to sanction the complained party S.C. Bal 99 Prod S.R.L., by a representative, with a fine of 2.000 lei, according to art. 26 from Government Ordinance no. 137/2000.

2. As regards the second head of claim, relating to the manifestation of conduct which has led to the creation of an intimidating framework for the petitioner and the Roma, violating the right to dignity and the right to access, on equal terms, the services provided by the Providers, the Steering board finds that the facts represent discrimination according to the provisions of art. 2 paragraph 1, art. 10 lit. f) and art. 15 from Government Ordinance no. 137/2000, republished, and decides to sanction the complained party S.C. Bal 99 Prod S.R.L., by a representative, with a fine of 2.000 lei, according to art. 26 from Government Ordinance no. 137/2000.

3. Nationality. Right to personal dignity

The petitioner makes a referral on Banciu's World, broadcast on B1 TV, on December 2, 2015 at 23.00. Within the show, the producer Radu Banciu discussed the news about the attempted terrorist attack in Târgu Secuiesc.

During the show, the filmmaker made a series of statements about the Hungarian minority as a whole. In this respect, the most important statements of the issue are reproduced:

Minutes 5:04 "Well, Madam, sure that the Hungarians do not have a very beautiful face, I have seen them too, it looks terrible. They look like those Hungarians "cheeks" from our youth, their chin beaten that. The Hungarians are horrible in general as men. Sure, we're not talking about their women now, that discussion is different. "

Minutes 17:23 "The Hungarian is indeed an avenger from birth, I know them, I know them. Since birth, they have revenge in their genes. They're built like that, they're all raised the same way. There isn't a single Hungarian in this world that does not denigrate or challenge the Trianon treaty. Although they do not know in detail what happened there because they are not very-read or cognizant guys or ... I only know a history of theirs as they see it. They do not know in detail what happened there, they do not know about the treaties. But obviously, they know their consequences; they know the titles, that's good. They were all raised like this. Regardless of what kind of people they are, they are grocers, they are grocers, they are university professors, they are aircraft pilots or astronauts or crocodile eaters, all the Hungarian citizens in the world contest the Trianon decision. There is no Hungarian on the Earth's surface to agree with this decision. They have it in their genes. Since they are born, they are built, yes, and they are told these things. This phenomenon is amplified. Everyone, absolutely everyone, is the same. So, with the Hungarians, the question of generalization is a huge mistake. They are all the same. Any other nation makes compromises. As the French say, put some water in the wine. Never the Hungarian. There is no Hungarian man or woman, therefore no Hungarian citizen on this planet considers Trianon to be right. They do not exist. Well, any other nation in the world has at least one individual (...) there are some who do not see things that way. They are indeed like a herd of sheep ... From this point of view - attention - all the Hungarian citizens in the world are the enemies of Romania. No discussion. Do not come to tell me that this is not the case. All citizens dispute this treaty through which Hungary lost Transylvania. "

Minutes 22:27 "So, they were proud of being Hungarian. They felt almost avenged only for this attempt. Of course, many Hungarians have never formulated such a thing in public, but they all thought it. Know that there is no greater joy for a Hungarian ethnic, and for a Hungarian in Australia, Mexico, Ciudad de Mexico, Santiago de Chile, wherever you want ... in Beijing ... there is no greater joy for a Hungarian than to hear that some Romanians were killed in Transylvania by a Hungarian. There is no joy (greater, our note), even if they do not formulate it. In their own right they would like things to evolve like this every day. Yes?"

Minutes 23:30 "They detest the French, obviously being a Latin nation. Hungarians hate everything Latin. Hating us, they hate all the Latin countries. This is their leitmotif. They are only on the side of the Anglo Saxon countries, the Slavic countries, less, finally ... They are with the Germans, with these ... with the English ... with the Latin, they viscerally hate

all of them. So, any Hungarian hates a Frenchman, that's obvious. When they heard that they were blown up, the concert hall, and that people were killed, they said ... No, they did applaud, but they did not feel bad, you know. They, as a nation, no, they do not condemn such a thing ..."

The aforementioned statements represent national-chauvinist propaganda and incitement to national hatred. He thinks that dignity has been affected and a hostile, degrading, humiliating and offensive environment has been created against the Hungarian minority in Romania.

The Steering board decides:

1. Finding the existence of differential, discriminatory treatment on the grounds of nationality, according to art. 2 par. 1 and of art. 15 from Government Ordinance 137/2000 on the prevention and sanctioning of all forms of discrimination, republished (unanimity of votes),
2. Penalty of the defendant with a fine of 5,000 lei, for the deeds stipulated in art. 2 par. 1 and art. 15 by Government Ordinance 137/2000, republished, according to art. 26 par. 1 of Government Ordinance 137/2000 on the prevention and sanctioning of all forms of discrimination, republished (8 votes in favour, 1 opposed);

4. Gender. Freedom of speech

During July 2017, an ad was published on the website www.roabadepromotii.ro with the following message: "DOES YOUR MAN BEAT YOU TWICE A DAY? CHANGE THE MAKE-UP!". The message promoted a fictitious product according to the party complained of, called "MAKEUP PUGILISTA".

In addressing this issue, the Steering Board is called upon to determine whether the advertising message exceeds the limits of freedom of speech and affects the criteria of sex with regard to respect for human dignity and the image of a group of people.

In this respect, the Steering Board finds that the activity of advertising some products or services is an approach that pursues a legitimate purpose in society, promoting them for the purpose of selling them. Although in its defence, the claimant claims that the advertising message is fictitious because it promotes a non-existent product, the way and the platform on which the message is transmitted easily mislead receptors, the target group. Thus, the platform on which the message was sent is intended solely for the sale of products and services.

The content of the message was built on a strong reality within the society: the high degree of domestic violence in Romania. The message contains an element of diminishing the importance of the topic of domestic violence against women in Romania, creating a degrading, humiliating atmosphere for women who are victims of domestic violence.

The way in which the advertising message was conceived and communicated has damaged the human dignity of women who are victims of domestic violence and has affected the image of this group of people by degrading and humiliating them only in order to attract views for the website through the message concerned.

The Steering board decides:

1. Sanctioning the owner of the website on which the advertising message, subject of this complaint, was placed, with a fine of 5,000 lei for violating art. 19 of Law no. 202/2002 and art. 15 from G.O. 137/2000;
2. Obliging the complainant to publish this judgment on the relevant website within 30 days and for a period of 30 days.

5. Disfavoured category (candidate height).

The right to education

The petitioner considers that it is discriminatory to impose a 1,70 m height for men (i.e. 1,65 m for women) to take part in the recruitment competition through an external source, taking into account the provisions of M.I.A. order no. 140/2016 on the human resource management activity in the police units of the Ministry of Internal Affairs.

Thus, the Steering board decides that the provisions of art. 7 par. (4) lit. a), corroborated with art. 6 par. (4) lit. a) of Annex no. 2 to the M.I.A. order no. 140/2016 on the legal conditions and specific criteria for the recruitment of candidates, as regards the condition of height (minimum 1,70 m for men and 1,65 m for women) represents discrimination according to art. 2 par. 3 in conjunction with art. 7 lit. a) from G.O. no. 137/2000 on the prevention and sanctioning of all forms of discrimination, republished.

With respect to punishing the act of discrimination according to art. 2 par. 3, corroborated with art. 7 lit. a) from G.O. no. 137/2000 republished, the Steering board notes that the provisions of the M.I.A. order no. 140/2016 on the legal conditions and specific criteria for the recruitment of candidates regarding the condition of height (minimum 1,70 m for men and 1,65 m for women) were also analysed by the decision no. 147 / 01.03.2017.

The Steering Board took note of both the reasoning underlying the judgment no. 147 / 01.03.2017, as well as the fact that the act of discrimination has already been sanctioned according to art. 26 par. 1 by G.O. 137/2000, republished, with a fine of 3000 lei, for which in this case a recommendation has been issued to the Ministry of Internal Affairs in the sense of ensuring equality of employment and profession.

The Steering board decides:

1. The finding of the act of discrimination provided by art. 2 par. 3 and art. 7 let. a) from G.O. no. 137/2000 on the prevention and sanctioning of all forms of discrimination, republished.
2. Recommends the Ministry of Internal Affairs to ensure equality in employment and occupation.
3. A copy of this judgment shall be sent to the parties.

6. Ethnic origin, the right to personal dignity

The petitioners complain about the discrimination they have suffered in the public space through various Facebook posts as well as in their home town, following an earlier conflict with the petitioner who allegedly verbally offended and threatened them (“smelly gypsies”), had an obscene behaviour towards them, which is why they filed criminal complaints against him from August to October 2016, complaints that have not been resolved before the petition.

On 21 October 2016 there was another conflict between the parties to the mutual filling of complaints to the municipal police. The petitioners stated that only the complainant’s complaint against them for threats and the disturbance of public peace was taken into account, as a result of which they were detained, with a proposal for preventive arrest.

The petitioners appreciate that the measures taken against them constitute an abuse, the urgency with which the detention procedure was carried out showing that the police acted as a result of the complainant’s pressure, given that their complaints had not been resolved but they reacted promptly to the complainant’s complaint on which even the head of the police said he would take care “to hit hard”, according to the petitioners.

After their preventive arrest, the petitioners point out that social networking posts have emerged, suggesting that a synchronized action has taken place, as exemplified by a “task done” posting by Pal Ede.

Also, complainants submit to CNND the petitioner’s posts on the social network:

- ▶ 23.11.2016 - For my birthday I feel like eating gypsy steak... half of plate of older meat...it doesn’t matter if it’s hard to chew. The other plate should be made of fresh meat but not to OILY”;
- ▶ 23.11.2016 -”...he is waiting for all the gypsies in this city who upset me... or behave similarly”.
- ▶ 22.11.2016 – distribution of a photograph titled “alternative therapies for the pain in the back of the Romanian political class - ACURPUNCTURA - Dr. Vlad Țepeș”

The petitioners also state that a public safety march was organized by a person supported by local authorities because they did not want their preventive arrest. Thus, they believe that people who have racial hatred and instigate by their acts of hatred and discrimination have been supported.

In view of the nature of the statements made publicly by social networking posts, the fact that the allegations under consideration were aimed at violating the dignity of the petitioners, even the Roma community through the means of expression, the Steering Board considers that a fine should be imposed in the amount of 2000 lei against the complainant.

At the same time, the Steering Board has the obligation to publish the summary of this decision in the local press as well as at the level of the Mayor’s office in Odorheiu Secuiesc, respecting the confidential data (personal identification data of the petitioners).

Also, the Steering Board decides to send a copy of this decision to the Odorheiu Secuiesc Mayor’s Office, the Odorheiu Secuiesc Local Police and the Harghita Prefect Institution.

7. Disabilities. Access to public places

The Steering board takes into consideration the fact that the applicant, a person with disabilities, complains about the lack of accessibility (in the absence of a ramp or elevated lift for people with locomotory deficiencies) in the shopping centre HM Shopping Mall located in Hala Moldovei in Focșani, fact confirmed even by the defendant formulated.

Legal persons, including private companies, must show exigency and concern, given the importance of respecting the principle of non-discrimination. However, including service providers, traders must take account of this requirement in order to prevent any possible discriminatory behaviour, since the right to non-discrimination is one of the fundamental rights in a democratic society, the right to equality being an immediate right and not progressive, since discrimination itself is an affront to human dignity. Discriminatory treatment often has the purpose or effect of humiliating, degrading, or interfering with the dignity of the discriminated person, in particular if such treatment is publicly available. Treating someone less favourably due to inherent criteria suggests primarily contempt or disrespect for his personality.

The Steering board decides:

1. The claimed facts constitute discrimination according to art. 2 par. 1 in conjunction with art. 10, lit. f) from O.G. no. 137/2000 on the prevention and sanctioning of all forms of discrimination, republished;
2. Sanctioning applicant with a fine of 1000 lei;
3. Obligating petitioner to publish the summary of this judgment in the press in a local newspaper, according to art. 26 par. 2 from O.G. no. 137/2000;
4. A copy of this decision shall be sent to the parties.

8. Access to education

The petitioner complains of the discrimination he is subjected to by excluding him from the national Olympic team of Romania at the International Olympiad of Modern Russian Language on the basis of his citizenship, respectively the refusal by the Ministry of National Education to recognize his merits at the contest (maximum score and 1st prize at the contest “The young orator”) since he was not part of the delegation approved by the ministry.

The Steering board notes that the petitioner is a Romanian citizen according to his father’s Romanian citizenship certificate, which he regained on 03.11.2016, a student at the “Virgil Madgearu” Economic College, the 10th grade, scholar of the Romanian state. Among the criteria students have to meet in order to participate in the International Russian Modern Olympics held in Moscow on November 20-26, 2016, there is also the qualification criterion on “Romanian citizenship proven by identity card or passport issued by the Romanian authorities “.

The Steering board decides:

1. The claimed facts constitute discrimination according to art. 2 par. 1 and par. 4, corroborated with art. 11 par. 2 from G.O. no. 137/2000 on the prevention and sanctioning of all forms of discrimination, republished;
2. Sanctioning the petitioner with a fine of 2000 lei.

9. Nationality. The right to personal dignity

The petitioners complained, and the National Council for Combating Discrimination had acted in response to the following public claims of the petitioner : Hungarians “as a people, are a people of migrants. They came to Europe fraudulently, practically. Yes. Let’s remember! *They have nothing to look for, they are not Europeans, and their language is not European.*.” ; “*Romania would be fine without the Hungarians. Transylvania would stand exceptionally without Hungarians.*.” „ *Arabs in Syria and Palestine, you in Hungary and we here.*.” „ *The Hungarians here, if they are so Hungarian and so against the Romanian people, stay in Hungary*”; „ *Romania would be fine without the Hungarians. Transylvania would stand exceptionally without Hungarians.*.” „ *do you think you are wanted somewhere? Do you think there is any nation in Europe that loves the Hungarians??*”

The Steering Board finds that the complainant, on 02.10.2016, on Banciu’s TV show at B1, starting at 23 o’clock, commented on a referendum on receiving refugees in Hungary and made the aforementioned statements. It can be seen that the allegations were made publicly. The allegations that the Hungarians are not Europeans, and thus they have no place Europe, are deeply offensive. The petitioner suggests that the Hungarians would be unwanted in Europe because of fraudulent migration. Such an assertion is meant to create a hostile environment for the Hungarians. The claimant’s claims are aimed at diminishing dignity, creating a hostile, degrading, humiliating environment for all Hungarians. Otherwise they are incidents and the provisions of art. 15 of G.O. no. 137/2000.

By **decision 80 of February 1, 2017**, the Steering Board found that the claimed claims represent discrimination according to the provisions of art. 2 par. 1 and art. 15 from G.O. no. 137/2000 on the prevention and sanctioning of all forms of discrimination. Also, the Steering Board has ordered the defendant to pay a fine in the amount of 5000 lei, according to art. 26 par. 1 from G.O. no. 137/2000 on the prevention and sanctioning of all forms of discrimination.

10. Religion. Access to public services

The petitioner regards as discriminatory the inexistence of a public cemetery that would allow the burial of persons of other religions than those with their own cemeteries. The petitioner indicates that, following the death of a person belonging to the Baptist cult, the local public authority claimed it did not find a solution for burial in the locality, even if a natural person proposed the burial of that person on his own land of that deceased person. Subsequently, the complainant expressed his consent to the establishment of a Baptist cemetery. It was not known whether the cemetery where the funeral was intended belonged to the local authority or the Romanian Orthodox Church.

By **decision no. 296 of 10.05.2017**, the Steering board has found that the actions complained of constitute discrimination according to the provisions of art. 2 par. 1 and art. 4 from G.O. no. 137/2000 on the prevention and sanctioning of all forms of discrimination. Also, the Steering board ordered the amount of 2000 lei to be charged as a fine, and also recommends that the petitioner sets up the communal cemetery according to the provisions of Law no. 489/2006.

11. Language. Access to education

The petitioner regards as discriminatory the reduction of places for the 9th grade classes with teaching in Hungarian as compared to the number of pupils who finish the 8th grade. Through the petition registered at the National Council for Combating Discrimination, the petitioner, parliament member, points out that the School Plan for the school year 2017-2018, elaborated by the complainant, provides 53 classes instead of 59 classes required for the number of 1653 pupils from the Hungarian class who wish to continue their studies in the Hungarian language. The Romanian classes were approved with 132 places more than required for 3060 pupils who complete the gymnasium cycle, and for the German section with 18 seats more. The Steering board finds that the curriculum under consideration has created a distinction between pupils who graduated in 2017 the Romanian or German classes from the pupils who finished at the Hungarian class.

Through decision no. 642 from 08.11.2017, the Steering board has found that the actions complained of constitutes discrimination according to the provisions of art. 2 par. 1 and par. 4 and Article 11 paragraph 1 and par. 2 from G.O. no. 137/2000 on the prevention and sanctioning of all forms of discrimination. Also, the Steering board ordered the amount of 2000 lei to be charged as a fine and at the same time advised the complainant that the school plan be developed in a fair way in the future for those who finish the 8th grade in Hungarian.

12. Disfavoured category (candidate height).

The right to education

The petitioner refers to the provisions of Order no. 140/2016 of M.I.A. on the human resources management activity in the police units of the Ministry of Internal Affairs. The petitioner considers that the right to pursue a career in the police is restricted because of the height criterion established by the Order of the Minister of Internal Affairs no. 140/2016.

The petitioner notified the National Council for Combating Discrimination through petition 5479 / 16.09.2016, establishing the existence of acts of discrimination through the decision no.147 / 01.03.2017.

By its ruling, the Steering board has established the existence of a discriminatory act falling under the provisions of **Article 2 paragraph 3 and Art. 11 par. 1 of GO no. 137/2000 on the prevention and sanctioning of all forms of discrimination, republished** and that the defendant shall pay a fine in the amount of 2000 lei.

13. Employment. Maternity leave.

The petitioner, working as operating inspector at the Timis County Post Office, notes that she was fired on 30.08.2016. In February 2013 she left on maternity leave until February 2016. On her return from maternity leave she was notified by address no. 119.8 / 345 / 18.02.2016 that the position held dissolved as a result of the reorganization ordered by the Steering board Decision no. 175 / 14.06.2013 and that, after the expiration of the 6-month period, she is to be fired, which has happened.

Through Decision no. 435 of 04.10.2017, the Steering board decided on the issues raised, ascertaining the existence of a differentiated, discriminatory treatment according to **art. 2 par. 1 and 7 a) from O.G. 137/2000 on the prevention and sanctioning of all forms of discrimination, republished**, as well as art. 10 par. 6 and 7 of Law no. 202/2002 on equal opportunities and treatment between women and men, republished (by unanimity of votes).

The National Council for Combating Discrimination sanctions the Romanian Post Romanian Company S.A. by a legal representative with a fine of 5,000 lei according to art. 7 of **O.G. no. 2/2001 on the contravention regime** (by 7 votes in favour and one opposed).

14. Sexual orientation. Right to personal dignity

The petitioner refers to the matter of discrimination in the public space, respectively on a news site, harassing and victimizing them in public space through defamatory statements. The criterion indicated by the petitioners is sexual orientation.

The Steering Board finds that the allegations were made publicly, respectively on a news portal and aimed at achieving the dignity of the petitioners. The allegations were likely to create a hostile, degrading, humiliating atmosphere against the petitioners on the grounds of sexual orientation.

Through Decision no. 656 / 15.11.2017, the Steering board pronounced itself on the issues raised, ascertaining the existence of differentiated, discriminatory treatment according to art. 2 par. 1, art. 2, par. 7, art. 7 lit. a) and art. 15 from G.O. 137/2000 on the prevention and sanctioning of all forms of discrimination, republished.

The petitioner was sanctioned with a fine of 2000 lei for the acts provided in art. art. 2 paragraph 1 and art. 15 from G.O. 137/2000, republished. At the same time, it is recommended that the petitioner avoid the occurrence of discrimination acts in the future.

15. Ethnic origin. Right to personal dignity

The Petitioner, Active Watch Association, claims that on the www.corbiiialbi.ro portal, the article posted on 05.06.2016 "The Romanian, the biggest enemy of the Romanians" contains defamatory assertions against the Roma.

In the published article, the petitioner makes several discriminatory claims:

“The black faces, with scarred hair starched with the mixture of sebum, dust and sweat, the barefoot legs and ragged clothes of the people who assail you wherever you go with the insistence of giving them money or something to eat become something ordinary in time it does not disturb you anymore.”

“You can easily accept that there is a dry forest near you, where, here and there, there is a green branch and sometimes even a stray green tree, because among the Roma - because they are - there are decent people who have a career, go to high schools and have exemplary social behaviours. “

“People without literature and written historical sources, the Gypsies have once settled in various localities in the country and have never been taken away. It was a matter of choosing and imposing this choice on the will of those who were already in the territory at the time of their coming.

Champions of school drop-out, unemployment and social aid, begging, delinquencies, deceivers and other deeds of this kind, the Gypsies have not only preserved their identity over the years, but have also established some kind of autonomy de facto through the presence of those kings and bulibasa, never disputed by anyone who pronounces sentences and impose rules.”

It also shows that “the Gypsies have imposed themselves as they are on a society that they overcome with each other, infesting it and contaminating it visibly with vulgarity, manifestations that defy the code of manners and kitsch, but nobody takes a stand.

“The general message of the article is that the Hungarian minority should not be considered as the one that represents a threat towards the majority but the Roma minority.

This article is directed against the entire Roma minority, which is presented in antithesis with the Hungarian minority, as the real danger to the Romanian citizens. There is a hostile, degrading, humiliating and offensive atmosphere against the Roma minority, having as a single criterion membership in a disfavoured group.

The petitioner states that the claimed article is one of the old catalytic articles used/ published at a time when the topic of the debate was anti-human psychosis, namely anti-immigrant psychosis. The article has undergone changes in the moving from one field to another on the indicated portal. The article was written in 2015 and did not suggest what was being claimed, as it was part of a whole system of articles, harsh comments, in which it played its part. Depending on the interest in the topic, the article changes its place among the headings.

The author of the article asserts that she had no intention of denigrating anyone. It was written in order to gain the right to write on the portal that pleads for tolerance and understanding between ethnicities, especially Hungarians and Romanians, because most tensions are known there, but not only. This was the idea from which it started, to show that at a national level it is a paradox, unreasonable and difficult to understand the hatred of the Hungarians, who are a decent ethnic community, although Romanians are able to tolerate the exponents of an ethnic group, in practice, could give rise to disputes. At the end of the article, Roma-

nians are admonished, the author being Romanian and it is concluded that neither Hungarians nor Gypsies pose a threat to the majority.

This article has been understood by many readers, over 3100, and over the course of a whole year there has been no discussion of any possible discrimination of the parties concerned during the debate. The chief editor acknowledges that he has failed to reread this old article.

It is also shown that both the petitioner and the petitioner militate for minority rights and it would have been enough just to inform the complainant and it would have removed the article with one click. The complainant appreciates that, out of grudge, a seed of scandal is being sought out against the portal she owns. The petitioner also has objections to sub-urban remarks made by the petitioner, that they are hurt by the comments addressed to them, comments which do not honour and do not lead to the fight against discrimination.

The hostile attitude of the petitioner worries them, not the fact that they watch over the texts published by the press. It invites them to express their views in the space for dialogue and debate and to end this conflict amicably.

Regarding the situation, the provisions of art. 2, par. 1, O.G. no. 137/2000, republished apply. The publication of the information / appreciation shown is direct discrimination, as it creates a difference from the other inhabitants of the area, affecting the morals and reputation of the ethnic Roma, and has the effect of restricting the exercise of the right to dignity on an equal basis.

The complainant did not invoke objective justification, including the existence of a legitimate aim, achieved by appropriate and necessary methods. In the analysis of the legitimate purpose, it is necessary to analyse the existence of this objective in relation to the right attained by differentiation (for example, according to the European Convention on Human Rights, freedom of expression may be restricted for the following legitimate purposes: national security, territorial integrity, public security, the prevention of crime, the protection of health, morals, reputation or the rights of others to prevent the disclosure of confidential information in order to guarantee the authority and impartiality of the judiciary power.

The Steering board notes that the provisions of art.15 of GO no. 137/2000 apply, by publishing information on the Roma ethnic group's assessments as formulated and aimed at achieving human dignity, creating an atmosphere of intimidation, humiliation, offensive against the group.

Therefore, the Steering Board finds that the facts presented in the petition constitute discrimination under Art. 2 paragraph 1 in conjunction with Article 15 of OG. no.137 / 2000, republished and orders the application of a fine of 2000 lei for the defendant.

16. Disability. Access to public services

The applicant, as the legal representative of a person with a severe disability, diagnosed with leukodystrophy, is aware of a possible act of discrimination because she did not receive accommodation and treatment at the hotel unit claimed.

At the hotel reception, presenting accommodation and treatment documents, he was told that he had to first obtain the approval of the hotel complex's director because one of the people to be accommodated has locomotory problems and is carrying pampers. He informed them that the hotel unit does not have accommodation and treatment for people with disabilities, they do not have a room for disabled persons, the hotel was built in 1970, and the size of the doors does not allow the carriage to enter in the rooms and that the bathrooms (bathrooms) are not adapted for people with such needs.

At the same time, they were advised to return to their home town, to go to the Pension House and ask for the sums paid for the treatment tickets. Being rejected from the hotel, they stayed elsewhere. By asking for supporting documents on the impossibility of staying, they were refused. The next day they got in touch with the Pension House and were told that they would not be paid for the treatment / rest tickets unless they had a certificate from the hotel or contact the National House of Pensions in Bucharest. By contacting the latter and telling all that happened, they were told that the hotel director shall be contacted. In a little while he received an SMS saying that he could pick up the required certificates from the Hotel.

Because of the petitioner's disability, he cannot exercise his right of access under the same conditions as people who do not have such locomotory disabilities, and he needs to take additional measures (special accommodation rooms and bathing room for the patient's hygiene to enter with the trolley), in order to exercise their rights equally with them.

Thus, the Steering Board finds the existence of a differentiated, discriminatory treatment, according to art. 2 par. 1 and art. 10 let. f) and art.15, regarding the effects created by restricting the access for persons with locomotory disabilities and gives the petitioner a fine of 1,000 lei according to art. 26 par. 1 from O.G. no. 137/2000.

17. Gender. Equal employment

LM, as Inspector General within the Ministry of Education, and being in a superior hierarchical position than the petitioner, accuses him of offensive behaviour, of theft and lack of professionalism "office documents are not safe around him", and "the Ministry of Education hires on other criteria than professional ones, people who do not have anything to do with the education system. "

The Discipline Commission met. The ministry summoned the members of the discipline commission, who initiated the disciplinary research procedures and included the facts notified to the disciplinary offense according to art.77, para.2, g, of Law no. 188/1999, based on the Minister's Order no. 1337.22.06.2016. The control body started the procedure for verifying the facts, and heard the parties as well as the witnesses proposed by them.

The petitioner never submitted to the Discipline Commission, being repeatedly on sick leave and on 19.09.2016, at his request, the service relations were suspended.

The Steering board, through Decision no. 712 / 06.12.2017, found that the issues raised in the petition are discriminatory according to art. 2 paragraph 1 and art. 15, "It is a contraven-

tion if the deed is not subject to criminal law, any conduct manifested in public, having the character of nationalistic-chauvinist propaganda, of incitement to racial or national hatred, or that behaviour that has the purpose or aim of diminishing dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment directed against a person, group of persons or a community and related to their belonging to a particular race, nationality, ethnicity, religion, social category or a disadvantaged or degrading category beliefs, sex, or sexual orientation,” from OG no. 137/2000 republished.

The Steering board sanctions the petitioner L.M for offensive and discriminatory behaviour towards the petitioner, with a fine in the amount of 1,000 lei according to art. 26, par. 1) and 2), of GO no. 137/2000, as amended, corroborated with art. 8 of the GO no.2 / 2001, regarding the legal regime of contraventions.

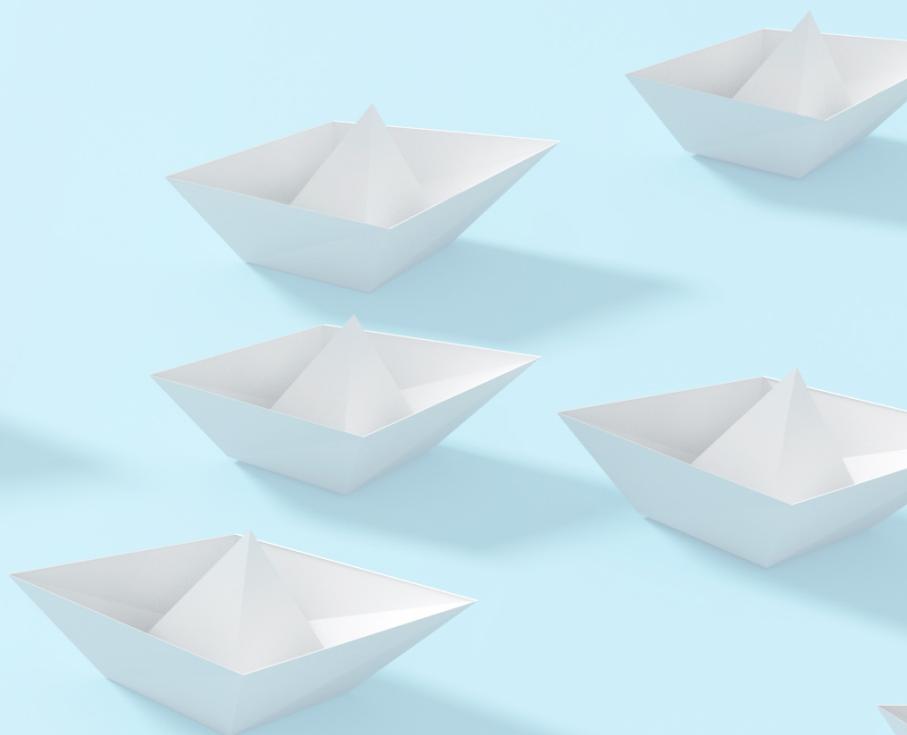
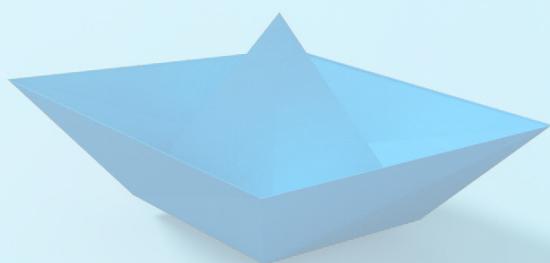
18. Gender. Trade union membership

The members of the N.L.T.F.T.R. syndicate are discriminated against by T.C.F.R on the basis of their membership. Thus, union members are given lower wage earnings by the employer to get them to leave the trade union. The petitioner is being denied a series of work-related rights, regulated by the Art. 5, paragraph 3 and paragraph 4, “The principle of equality of treatment applies to all employees and employers”, “discriminatory acts and facts apparently based on criteria other than those stipulated in paragraphs 2, but which produce the effects of direct discrimination.”

“ In settling the petition more objectively, the petitioner submits to the case file a large number of statements on his / her own responsibility, showing how the trade union members were discriminated against on the basis of the reduced wage payment compared to other colleagues who are not part of the representative union.”

The Steering board, through Decision no.589/18.10.2017, found that the issues raised in the petition are discriminatory, according to art. 2, parag. 1, and art. 7 with a), “termination, suspension, modification or termination of the employment relationship “, g),” any other conditions of work, according to the legislation in force “.

The Steering board sanctions in contravention petitioner S.C.T.CFR S.A, through legal representative Mr A. I. - Director, with a fine in the amount of 20,000 lei, according to art. 26, par. 1) and 2) of OG no. 137/2000, as amended, in conjunction with art.8 of GO no.2 / 2001, regarding the legal regime of contraventions. The Steering board recommends the petitioner S.C.T. CFR S.A, to show in the future non-discriminatory behaviour, based on equality of rights for all its employees, without distinction on the basis of union membership.



Prevention of all forms
of discrimination



The actions provided in the N.C.C.D. agenda have been aimed at promoting equality and diversity, priorities being focused on eliminating stereotypes, changing discriminatory mentalities and practices to achieve the goal of social equality.

In 2017, N.C.C.D. has continued to strengthen relations with non-governmental organizations in the field of human rights and respect the principle of equal treatment and equal opportunities among citizens, strengthening relations with governmental institutions of the same sphere of interest and similar governmental and non-governmental bodies from an international level.

The experience gained over the years has shown that information is very important in building correct, responsible and tolerant mentalities within the society. So, by publishing brochures and purchasing video materials, organizing conferences and Summer Schools or by training some professional categories in the field of preventing and combating discrimination, our institution continued in 2017 the national information policy on the effects of discrimination, while actively involving citizens in promoting the principles of non-discrimination and equal opportunities.

The efforts of the National Council for Combating Discrimination to promote diversity and protection of human rights, coupled with those of traditional partners, have materialized through a series of effective collaborations, hoping that they will continue in the years to come.

„The New Journal of Human Rights“

The collaboration between the Centre for International Studies and the National Council for Combating Discrimination continued this year by quarterly publishing in the New Journal of Human Rights materials on anti-discrimination, the promotion of the principle of equal opportunities, the N.C.C.D. 's jurisprudence, studies and other articles on the matter.

Continuing collaboration is due to the beneficial impact that the publication of these materials has been shown to have on society but also on our institution, thus highlighting our experience in human rights, preventing and combating discrimination.

„Summer school 9th edition“

„Risk Groups and Social Support Services. The right to non-discrimination“

The purpose of this annual project is to improve the lives of vulnerable and marginalized groups by increasing the capacity of young professionals to provide support services and

ensure the implementation of the right to non-discrimination. Among the objectives of the project we count increasing students' / master graduates' ability to understand the dynamics of vulnerable and marginalized groups in order to act accordingly and sensitize young people to adopt a positive and active attitude to improve the quality of life of disadvantaged people. The beneficiaries of the project were 40 people, both employees of N.C.C.D. as well as students and master students in sociology, social sciences, psychology, journalism, communication, public administration, law, biology, chemistry and theology.

The project ran from July 10 to July 16 in the Saturn resort, during which the participants had the opportunity to join and work in informative workshops on: respect for human rights, discrimination and anti-discrimination policies in Romania, drug use and commercial sex (prostitution), HIV pre / post counselling and HIV testing, feminism, LGBTQ, social assistance for homeless adults, the legal framework of social support services addressed to risk groups.

At the "Summer School", the participants developed their understanding of vulnerable and marginalized groups and managed to find ways to intervene in this area (support programs, anti-discrimination campaigns, social reintegration programs).

Considering the feed-back received, it is desirable to continue the project in 2018, to develop it on a larger scale by making permanent the informing-educating actions by strengthening the partnership that will create a tradition in the relationship between the National Council for Combating Discrimination, Carusel Association, Faculty of Sociology and Social Assistance, National College of Social Assistance in Romania, APADOR-CH, Anti-drug Brigade, ANA, National Council for Elimination of Discrimination and Equality Assurance - Moldova.

Contest of literary creation and drawing „ Equality and non-discrimination” – 10th edition

There were 27 schools, 223 literary works and drawings, 84 winning works, 28 prizes, 25 type II awards, 26 type III awards and 55 mentions.

The Literary and Drawing Contest - "Equality and Non-Discrimination" by N.C.C.D. in partnership with the "Dimitrie Cantemir" Christian University of Bucharest and the School Inspectorate of Bucharest under the research and development project "Promoting the right to non-discrimination and equal opportunities at the pre-university education in Bucharest" was aimed at:

- 1) Developing the ability to know and understand the principles of non-discrimination and equal opportunities;
- 2) Developing the capacity to understand the notion of subjective right;
- 3) Developing the capacity to apply the principles of non-discrimination and equal opportunities in all areas;
- 4) Stimulate interest in engaging in the process of promoting the principles of non-discrimination and equal opportunities.

The contest took place in 6 stages and addressed pupils aged 6-19 years, encouraging them to appreciate the artistic inspiration for promoting the right to non-discrimination and equal opportunities. In the first stage the contest was popularized on the N.C.C.D.'s and "Dimitrie Cantemir" Christian University's websites but also through interactive courses and seminars within the participating schools. Then the stages of receiving and evaluating works and drawings followed and the best works were finally awarded, with literary works being published in the "Equality and Non-discrimination" paper and drawings in an office calendar for 2016, materials that will be distributed to participating students and not only.

All creations participating in the contest (except drawings) were published in a volume titled "Buds of Hope ...".

The award-winning drawings were published in an office calendar 2017-2018, engraved with both the name of the project and the names of the partner institutions. Drawings that have not been awarded have also been published in the calendar, and their authors have received a degree certificate and a calendar.

Seminar on "Coordination of the National Response and Prevention of Discrimination - Models of Good Practice" 2nd edition

Following the Partnership Agreement no. 23.380 dated 02.10.2017 concluded with the Carusel Association, the National Council for Combating Discrimination held the seminar on "Coordination of the National Response to Combating Discrimination - Good Practice Models", 2nd edition, project held between 08-10.12 .2017, within Eden Hotel Complex, located in Predeal, Brasov County.

The purpose of the project was to exchange information and experience on policy-making in the field.

Representatives of N.C.C.D. provided specialized information and practical examples on preventing and combating discrimination, as well as exemplifying ways to address such situations. Representatives of the Carusel Association presented the measures implemented by the Civil Society in support of disadvantaged and vulnerable groups, providing specialized information and practical examples on preventing and combating discrimination, as well as exemplifying ways to address such situations.

The objective of the project was to develop the capacity to improve the management of discrimination cases in the counselling process of petitioners belonging to vulnerable groups throughout the petitions process from the point of view of the victims of discrimination, and the themes presented included: the evaluation of the cases regarding the discrimination of the groups vulnerable (case study "Ferentari District"); case analysis on homelessness: stigma and marginalization; support services for children from vulnerable groups. (case study: "Obor Community Center"); Assessing cases of HIV / AIDS discrimination - a friendly approach; identifying public policies together with civil society to effectively combat discrimination.

“15 years of non-discrimination in Romania. Jurisprudence and developments”

Between 28 and 31 March 2017, the National Council for Combating Discrimination organized the Non-discrimination Training Seminar within the project “15 years of non-discrimination in Romania. Jurisprudence and developments “.

The target group consisted of 25 magistrates from different courts, prosecutors, HCCJ, NIM, SCM, Ministry of Justice and DIOCT.

During the 3 days of the seminar, topics such as stereotypes and prejudices, types of discrimination and exceptions to discrimination, sanctions, hate speech and hate crimes, domestic and international law, national jurisprudence, ECHR and CJEU, as well as procedure complaint handling were approached.

The sessions took place in an interactive format during Power Point presentations, with the participants having the opportunity to discuss the various real situations, giving examples from the practice of the N.C.C.D. and the courts. After the session participants received emails and other non-discrimination materials.

Between 23-26 May 2017, the National Council for Combating Discrimination organized the second non-discrimination training seminar within the project “15 years of non-discrimination in Romania. Jurisprudence and developments “.

This time, the target group consisted of 25 persons from the General Inspectorate of the Romanian Police (Public Order, Criminal Investigations, Crime Investigation and Crime Prevention, IPJ), the General Anticorruption Directorate, the Gendarmerie and the Institute for Studies for Public Order.

During the courses, the participants received information on stereotypes and prejudices, types of discrimination and exceptions to discrimination, sanctions, complaints procedure, domestic and international law, national jurisprudence, ECHR and CJEU. A distinct chapter was the analysis of hate speech and hate crimes with concrete examples from the case law of the Council and the courts. Participants asked questions about how to respect human rights and non-discrimination in research, detention or arrest procedures.

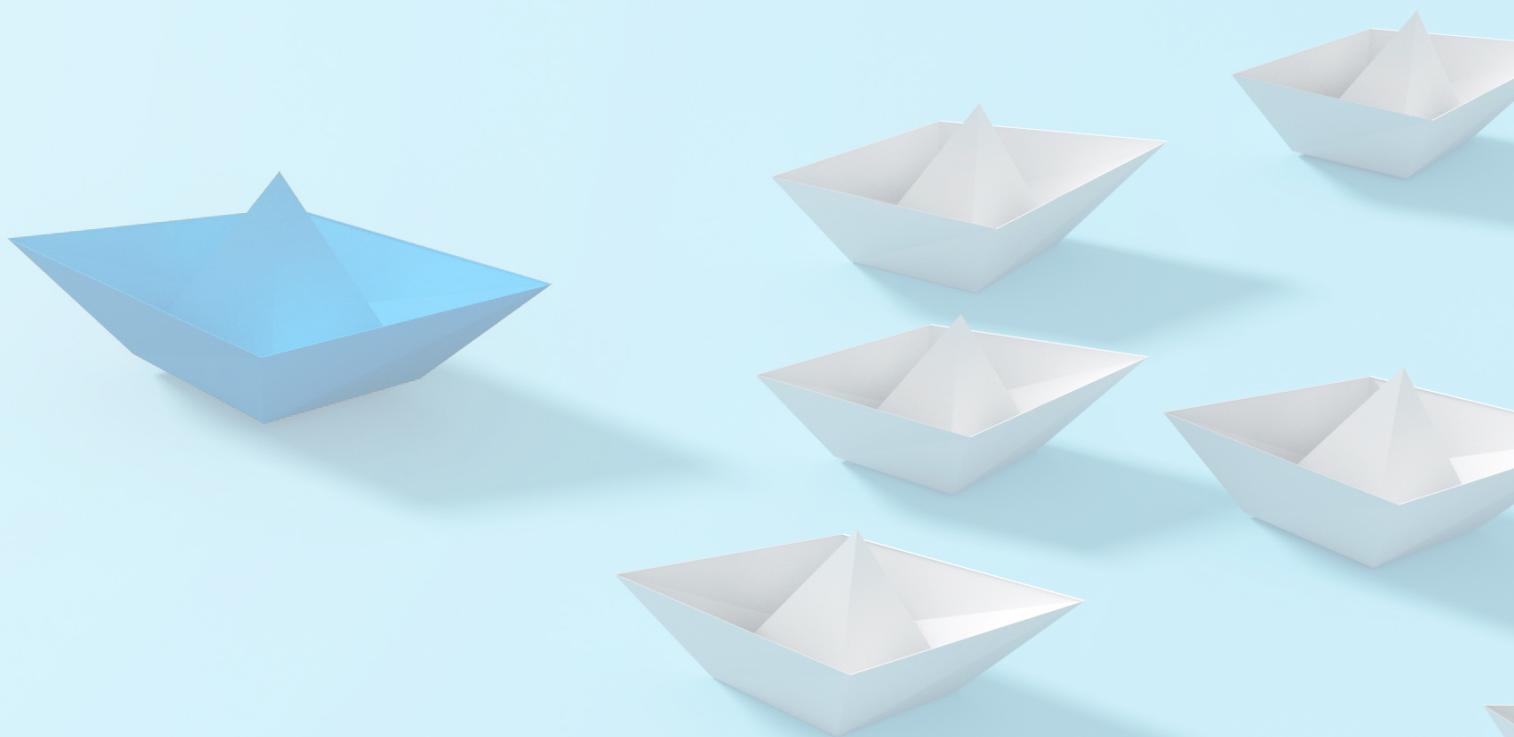
“International Conference on Non-discrimination and Equal Opportunities - N.E.D.E.S.” 11th edition

International Conference on Non-discrimination and Equal Opportunities - N.E.D.E.S. was organized by the National Council for Combating Discrimination in partnership with the “Dimitrie Cantemir” Christian University and the Commission for Human Rights, Cults and Problems of National Minorities within the research and development project “Ways to Promote the Principles of Non-Discrimination and Equal Opportunities in the Current Society”. The event, reached at the 11th edition, has set the right framework for the meeting and the

exchange of ideas of the specialists in the field, as well as the observation of the way in which the principles of non-discrimination and of equal opportunities are respected in the Romanian and international society.

Organized for the first time in 2007 on the occasion of the European Year of Equal Opportunities for All, the conference has grown in popularity from year to year and has gained an international name by making it possible to highlight interdisciplinary and multidisciplinary research through the involvement of experts in the field human rights, but also students who are keen to learn.

The Conference on Non-Discrimination and Equal Opportunities - NEDES 2017 has achieved its goals, both by attracting a large number of works from all areas of activity and by an impressive number of interested people. It should be noted that the Facebook page of the Conference was visited by more than 5026 people, which proves an increased visibility of both the conference itself and the project partners.



The issue of discrimination
in Romania reflected
in the international reports

1. FRA – Second survey regarding minorities in the European Union and discrimination (EU-MIDIS II) Roma –main⁴ results

In December 2017, the FRA published the second EU minority survey and Roma discrimination (EU-MIDIS II) - main outcomes. The results of the second FRA Survey on Migrants and Minorities - EU-MIDIS II - published in December 2017, are striking and frustratingly persistent. Seventeen years after the adoption of EU laws prohibiting discrimination, immigrants, descendants of immigrants and ethnic minority groups continue to face widespread discrimination throughout the European Union and in all areas of life - most often looking for a job.

The results show little progress compared to eight years ago when the first survey was conducted: the proportions of those who face hatred and discrimination and those who do not know the relevant legislation remain at a worrying level.

Harassment and hate violence

The Roma in Romania (40%) often indicated that the perpetrator had a different ethnic minority than their own. A relatively large proportion of respondents who were stopped by the police in the five years prior to the survey believe that this is due to their ethnicity (42%).

Frequency of discrimination experiences

The results regarding discrimination on access to health show that on average it is mostly felt by Roma respondents (8%), in Romania (12%).

Reporting discrimination

A look at the Member States reveals some relatively prominent gender differences. In some countries, women who are victims of discrimination report more often than men, but men report more often in Romania (men: 14%, women: 8%) and the Czech Republic (men: 18%, women: 13%).

Extending the perceived ethnic profile among those stopped by the police

A relatively large proportion of respondents who were stopped by the police in the five years prior to the survey believe that this is because of their belonging to an ethnic minority or being an immigrant. In Romania, among the Roma respondents who have been stopped, the perceived ethnic profile rates are higher than the average of the aggregate group.

⁴ <http://fra.europa.eu/en/publication/2017/eumidis-ii-main-results>

2. Opinion IV of the Advisory Committee of the CoE Framework Convention for the Protection of National Minorities⁵

The latest Council of Europe (CoE) GRECO (Group of States Against Corruption) report was published on February 16, 2018.

GRECO is an anti-corruption body of the Council of Europe that seeks to improve the ability of Member States to fight corruption by monitoring their compliance with anti-corruption standards.

The findings are based on the information contained in the Fourth Statement submitted by the authorities on 1 February 2016 and on the information obtained by the Advisory Committee in governmental and non-governmental contacts during the visit to Bucharest, Cluj-Napoca, Suceava and Constanta in April 3-7, 2017.

The reading of the IV Opinion shows that the Romanian authorities have made efforts to promote minority culture and education, but the existing legislation regulating different aspects of the protection of national minorities is disjointed, fragmented, full of grey areas and open to contradictory interpretations.

There isn't yet a coherent policy guaranteeing access to minority rights, and respecting the rights of persons belonging to national minorities varies according to local conditions and the goodwill of municipal or regional authorities.

The report notes the persistence of negative attitudes and prejudices against Roma and anti-Hungarian sentiment. Despite the ruling of the National Council for Combating Discrimination, Judgments and Statements of Authorities, racist incidents continue to be reported.

Below are the findings and recommendations found in the GRECO report on N.C.C.D. 's activity:

- ▶ Article 4 of the Framework Convention, the evolution of legislation and policies on national minorities, allocates space to preventing and combating discrimination by talking about the National Council for Combating Discrimination (N.C.C.D.), which it states that it was founded in 2000, actively countered discrimination, initiating procedures on their own initiative, as well as investigating complaints filed by natural and legal persons. The principle of reversing the burden of proof in the courts and the N.C.C.D. was reinforced in March 2013 by a law stating that a petitioner “will have to submit facts” instead

⁵ <https://rm.coe.int/fourth-opinion-on-romania-adopted-on-22-june-2017/168078af76>

of “proof, indirect, and the defendant has to prove that the facts are not discrimination.”

► The Advisory Committee also notes that the amount of the fines the N.C.C.D. may impose has increased significantly to 30,000 lei if the victim is an individual and up to 100,000 lei if the victims are a group or a community.

► The report notes that the N.C.C.D. continues to enjoy public support and receives a substantial number of complaints each year. The number of individual complaints oscillated between 752 (in 2015) and 858 (in 2013) in the last five years. In 2016, the last year for which figures are available, the N.C.C.D. received 842 complaints of discrimination. Allegations of discrimination on the basis of ethnicity were formulated in 81 complaints, on the criterion of language in 25 cases and on the criterion of race in three cases. N.C.C.D. issued 111 fines, 53 warnings and made 44 recommendations. The Advisory Committee notes that approximately 86% of the N.C.C.D.’s decisions, which were challenged in 2016, were maintained by the competent courts (such as the Courts of Appeal and HCCJ). In addition, it should be noted that the courts have asked the N.C.C.D. to formulate points of view in approximately 750 cases, alleging breach of the principle of non-discrimination.

► GRECO regrets that N.C.C.D. operates exclusively from its central office in Bucharest and has no regional support to enable it to have a more meaningful vision in the country.

► However, the Advisory Committee notes with concern that the financing for the N.C.C.D. has not increased since 2009, with the amount of 5,914,000 RON in 2016. Limited state funding has forced the N.C.C.D. to rely on extra-budgetary funding, mainly from foreign donors, for awareness-raising activities and training that it carries out in addition to its core activities. In addition, financial constraints have prevented N.C.C.D. from employing key staff for its operation. Of the 89 N.C.C.D. posts, only 70 were funded in 2016, with only 63 employees at the end of 2016.

► *Recommendations:* The Advisory Committee calls on the authorities to continue to support and cooperate with the National Anti-Discrimination Council in order to enable it to perform its role effectively. At the same time, the Advisory Committee urges the authorities to provide the National Anti-Discrimination Council with adequate financial and human resources in order to be able to carry out its tasks effectively and independently.

► In Article 6 of the Framework Convention, Tolerance and Intercultural Dialogue, the Advisory Committee welcomes the efforts made by the N.C.C.D. to promote interethnic understanding in society. The efforts of authorities to promote minority culture, education and the special measures taken to facilitate the representation of national minorities in parliament are widely recognized and appreciated.

► Despite these efforts, there is a visible perception of the persistence of xenophobia and intolerance especially directed against the Roma and antagonism towards the Hungarian minority. The Advisory Committee notes with deep concern that, despite the strong stance of the N.C.C.D., judgments and authorities’ statements, measures to combat racist incidents supported by the European Commission against Racism and Intolerance (ECRI) have not diminished the number of xenophobic and racist public arena.

► Some N.C.C.D. decisions have been widely discussed in the media and in the society, contributing to a better understanding of the issues of discrimination and their harmful effects on society as a whole. The Advisory Committee notes, in particular, the decisions taken in 2016, which imposed fines:

- Radio Zu commentators for racist “jokes” during the football match between Romania and Congo, which “created a hostile, degrading and humiliating atmosphere for the African people”
- a newspaper for the publication of humiliating and discriminatory ads on the Roma
- to a hospital in Cluj-Napoca for not communicating to the parent the minor child’s diagnosis in a language they know
- Also, in 2016, the High Court of Cassation and Justice (HCCJ) maintained the N.C.C.D.’s decision to impose a fine on President Traian Basescu for a degrading declaration that damages the image of the Roma.

► The Advisory Committee welcomes the fact that both the N.C.C.D. and the courts have taken action to combat internet hate speech. In February 2012, the N.C.C.D. took action and fined a Facebook user for “nationalist propaganda, to the detriment of human dignity and creating a degrading, humiliating and offensive atmosphere.” This decision was subsequently maintained by the County Court of Târgu Mureş in January 2013.

► Moreover, it is welcomed that in 2013 amendments were introduced to Ordinance no. 137/2000, with a view to harmonizing the anti-discrimination national legislation with the provisions of the Council Directive 2000/43 / EC by transferring the burden of proof and limiting the scope of exceptions that should not be considered as discrimination. Finally, it is mentioned that Law no. 217/2015 amended and supplemented Government Emergency Ordinance no. 31/2002 on the banning of fascist, racist or xenophobic organizations and symbols and the worship of persons guilty of crimes against peace and humanity, called the “anti-legionary law”.

3. European Commission Country Report on Romania⁶

Published on March 7, 2018, the Country Report on Romania states that our country has made limited progress in implementing the 2017 recommendations that have been addressed to it.

- There has been no progress in how to set the minimum wage and equalize the retirement age for men and women.
- Limited progress has been made in improving access to quality general education. The national target for reducing the number of people at risk of slimming or social exclusion has already been reached. However, as far as the intensity of R & D and early school leaving is concerned, the objectives are not yet met.

⁶ https://ec.europa.eu/info/publications/2018-european-semester-country-reports_en

- ▶ Following the adoption of the Strategy on Reducing Early School Abandonment in 2015 and following the progress made in the coming year, efforts to continue to implementation were modest in 2017. This is reflected in high rates of early school leaving, inequalities in quality education, including for Roma, and in the large discrepancies in school results, all of which highlight the persistence of obstacles.
- ▶ Despite recent improvements, labour force participation rates are well below EU averages. These are, in particular, women, the elderly, the Roma, the young and the disabled.
- ▶ There are a number of specific difficulties related to equal opportunities. Inequality of chances persists in education, health, access to employment and services and is prevalent especially in rural areas. This is also due to the precariousness of the social dialogue.
- ▶ The Roma face many disadvantages. Compared to the rest of the population, they face a very high inequality of chances and rates of poverty with a low employment rate, with a low level of training, with a low level of health insurance coverage and poor living conditions. There is segregation in neighbourhoods, forced evictions and discrimination at work. Although the specific bodies dealing with the Roma situation demonstrate greater involvement, their impact depends on the work of the other institutions. Measures targeting Roma inclusion are mainly supported by projects with external funding. Much of this is just at the beginning.
- ▶ People with disabilities and children face a higher risk of poverty. Many people with disabilities leave school early and few end up in tertiary education, which lowers their chances of employment.

4. Amnesty International Report 2017/2018⁷

The Amnesty International 2017/2018 report presents the human rights situation in Romania in 2017.

It is noted that in March, the Senate rejected a bill requesting the repeal of part of Law 48/2002, which established the National Council for Combating Discrimination. The bill was proposed by a former deputy who was fined by the body in 2016 for homophobic statements.

Roma Discrimination

The Roma were still discriminated against. In February, the European Commission said the risk of living in poverty was almost three times higher for the Roma than for the rest of the population.

⁷ <https://www.amnesty.org/en/documents/pol10/6700/2018/en/>

The right to education

The new legislation aimed at preventing, combating and banning segregation in primary and secondary education came into force after its adoption in December 2016 by the Ministry of National Education. Two ministerial orders have established a public policy against segregation in schools for a wide range of reasons, including ethnicity, disability and socio-economic status of the family, and a related action plan to be implemented by October.

LGBTI rights

The Senate's decision on a national referendum on the possible restriction of the constitutional definition of "family" from "marriage between spouses" to "marriage between a man and a woman" has remained awaiting for the end of the year. The Family Coalition - a group of about 30 associations and foundations - has promoted this restriction since 2016.

Discrimination of people with disabilities

Living conditions in social care and psychiatric institutions for people with disabilities have remained extremely precarious.

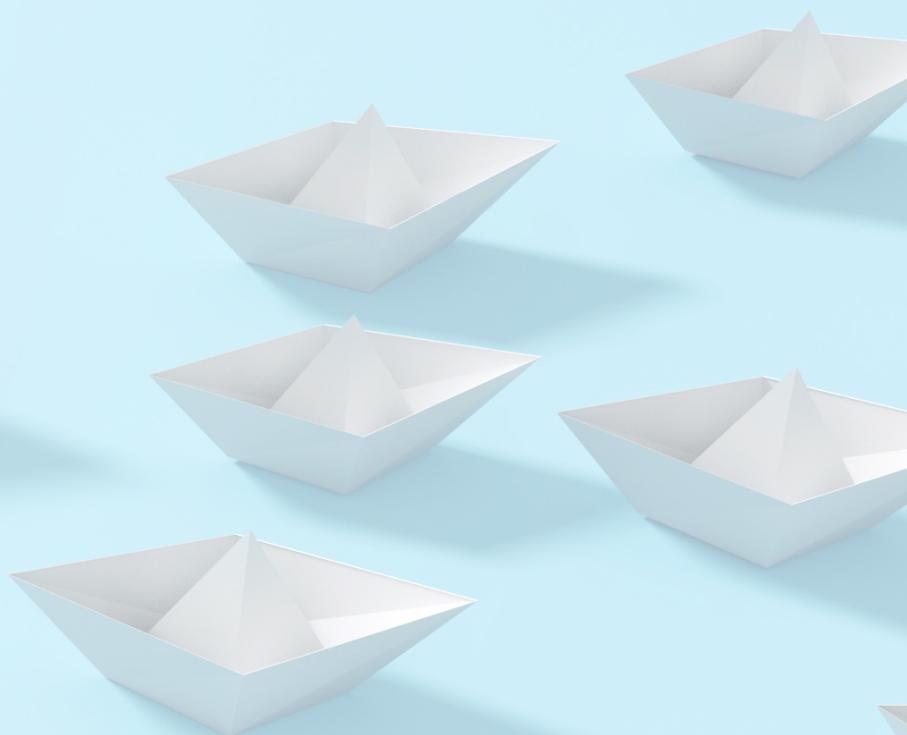
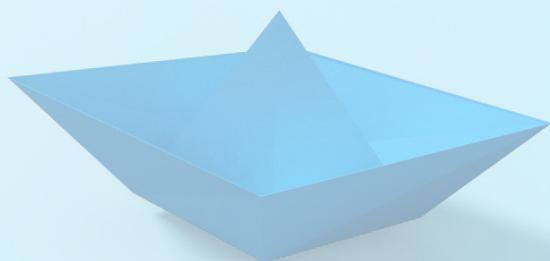
The monitoring mechanism provided by the UN Convention on the Rights of Persons with Disabilities, ratified by Romania in 2011, was not fully operational at the end of the year.

Violence against women

In spite of increasing legal protection, violence against women has remained universal, including in Romania.

In July, the UN Committee on the Elimination of Discrimination against Women recommended extending existing legislation to address all forms of gender-based violence, strengthening women's access to justice and redress, collecting disaggregated data and improving access to sexual and reproductive health and rights.

In May, the ECHR noted that, despite the existing legislation and a national strategy, the government did not commit enough to take appropriate measures to prevent and combat domestic violence. The ECHR also criticized the limited number of shelters for women victims of domestic violence available throughout the country.



Representing Romania at an international level



The international representation of the National Council for Combating Discrimination through participation at international meetings, debates and meetings in the field of non-discrimination continued, the continued to strengthen cooperation relations with similar bodies and authorities in bilateral, regional or international dialogues during 2017.

The presence of representatives of the institution at international level at international meetings, debates and meetings contributed to the coverage of N.C.C.D. but also to increase its visibility, to improve relations with similar institutions in European countries, as well as to establish new collaborative ties. Among the events organized in 2017 at the international level, we present some of the following:

During January 26-27, 2017, the first consultative meeting organized by CPEDAE Moldova with representatives of the N.C.C.D. on discrimination by association of unvaccinated children was held in Chisinau on the grounds of parents' agreement.

The meeting was attended by the National Council for Combating Discrimination, the President of the institution, the Director of the Legal Department and the Cabinet Director, in accordance with the invitation issued by CEPEDAE.

The representatives of CPEDAE have exposed their problems regarding the discrimination by association of unvaccinated children on the basis of the opinion of the parents and of the concrete cases they have faced in the last period, respectively the refusal of some educational units to receive the children with no evidence of vaccination.

During the discussions, the representatives of the N.C.C.D. offered examples from Romania on this issue, but also how it was solved.

At the same time, education and health legislation in the Republic of Moldova has been analysed in the light of the possibility of such discrimination. In particular, the legal possibilities for resolving the case directly related to the applicable law in the Republic of Moldova were analysed.

During February 14-15, 2017, the second consultative meeting organized by CPEDAE Moldova with the N.C.C.D. representatives on the issue of discrimination through association of unvaccinated children was held in Chisinau on the basis of parents' opinion.

The meeting was attended by the National Council for Combating Discrimination, the President of the institution, the Director of the Legal Department and the Cabinet Director, in accordance with the invitation issued by CEPEDAE.

Following the discussions in January, the N.C.C.D. representatives together with the CEPEDAE representatives analysed the applicable EU legislation in such situations and the cases

existing at the CJEU and the ECHR. It also looked at the constituent elements analysed by the two European institutions in solving such cases.

The N.C.C.D. representatives provided concrete technical support in the analysis of the elements, as is the case in the cases before the Council, according to the petitions procedure.

On March 21-22, 2017, a third consultative meeting organized by CPEDAE Moldova with representatives of the N.C.C.D. on the issue of discrimination through association of unvaccinated children was held in Chisinau on the grounds of parents' agreement.

Given that the Moldovan legislation cannot directly apply EU Directives, the representatives of the two equality bodies have tried to identify solutions to improve both anti-discrimination and other anti-discrimination legislation, so that situations of the genre of those discussed will not happen again.

Discussions were also held on what other national institutions should be involved in improving the legislation and levers CEPEDAE has in relation to these institutions.

On April 27, 2017, in Brussels, the first meeting of bodies designated to be the contact point in the implementation of the 2014/54 / EU Directive on measures to facilitate the exercise of rights conferred on workers in the context of the free movement of workers took place in Brussels.

From the National Council for Combating Discrimination, as the designated contact persons, the Manager of the Legal Department and the Cabinet Manager participated.

The meeting was organized at the European Commission headquarters, the Albert Borschette Conference Center, its main objective being to foster cooperation between bodies, to find solutions to how to link existing information and assistance services at Union level, for example SOLVIT, but also to identify the paths for close future cooperation.

The meeting started with a short round of table in which each representative briefly presented the tasks of the national body he is part of and his role in implementing the Directive at national level.

Subsequently, there were presentations of the Directive and the legislative framework it created, the SOLVIT system and ways of cooperating with it with regard to respecting workers' rights in the context of free movement.

Direct links have been established between national representatives from different countries, and they will work together on concrete cases when necessary.

It has been decided that such meetings shall take place every year at the European Commission.

During May 17-18, 2017, the fourth consultative meeting organized by CPEDAE Moldova with the N.C.C.D. representatives on the issue of discrimination through the association of

unvaccinated children took place in Chisinau on the grounds of parents' agreement.

The progress made by CEPEDAE on the dialogue and involvement of other national institutions responsible for respecting human rights in their area of work has been analysed. Also discussed were the best practices registered by the EQUINET Member States on improving anti-discrimination legislation, especially with regard to the issue of child vaccination and the choice of parents, a criterion that can lead to discrimination in access to education.

On May 19, 2017, the 4th session of the Inter-Governmental Commission Moldova-Romania for European Integration took place at the Chisinau Foreign Ministry.

The meeting discussed the evolution of the sector projects agreed at the Commission's third meeting (May 4, 2015, Bucharest) and established the cooperation directions for 2017, in order to support the European path of the Republic of Moldova, implicitly fulfilling the commitments derives from the Association Agreement signed with the EU and the provisions of the Comprehensive and Comprehensive Free Trade Area.

Discussions took place in plenary (two sessions) and in sector working groups - legislative harmonization, internal affairs, justice, prosecutor's office, magistrates 'training, magistrates' cooperation, integrity, anti-discrimination, regional cooperation, agriculture, sanitary veterinary and food safety.

Regarding the area of non-discrimination, within the sector group were analysed the final results of the project "Strengthening the Capacity of the National System in the Republic of Moldova to Combat the Discrimination through the Participation of the Civil Society", results that were subsequently presented in the plenary session.

For the next period, the parties have proposed to support the CPEDAE by the N.C.C.D. in order to apply to a twinning project, as well as to continue the collaboration between the two institutions on matters related to the problems and causes under examination.

During May 4-5, Trier organized a seminar on "Applying European Union Anti-Discrimination Legislation" organized by the European Law Academy (ERA), N.C.C.D. being represented by the Legal Division.

The seminar debated topics from the two European directives banning discrimination on grounds of race or ethnic origin in a number of areas, as well as disability, age, sexual orientation or religion / belief in work and occupation; the European legal framework on equal treatment for women and men: EU Charter and Treaties, EU Directives on equal treatment of women and men, international instruments; The Istanbul Convention and the legal implications of a possible EU accession.

During the 13 and 15 June 2017, in Chisinau took place the fifth consultative meeting organized by CPEDAE Moldova with representatives of N.C.C.D. , as well as representatives of the civil society of Rep. Moldova, on the issue of discrimination by association of unvaccinated children, based on the parent's agreement.

Representatives of civil society have presented the problems they face in implementing the principle of non-discrimination with regard to the population as well as regarding the state institutions and especially regarding the education system.

The solutions identified by the two equality bodies, but also their sustainability on the medium and long term, have been analysed taking into account the existing political realities and the budget allocated to CEPEDAE for the conduct of informative actions and campaigns.

It has been established that these series of bilateral consultations shall continue on the various problems that will arise in the Republic of Moldova in order to effectively support the equality institution in the process of creating and implementing a system that is as effective and closer to the requirements of the European Union.

Taking into consideration the invitation of the Council for Prevention and Elimination of Discrimination and Equality Assurance in the Republic of Moldova to continue the bilateral meetings in order to consolidate the Moldovan institution, on **August 28 and 30, 2017**, a new working meeting was held in Chisinau between the two institutions.

The meeting focused on the current challenges faced by the Moldovan institution, namely the cases of language discrimination in different regions of the Republic of Moldova.

Experts from the N.C.C.D. have examples from the jurisprudence of the institution, cases in which petitions have been analysed on the basis of language discrimination and analogy of nationality.

Together with the CPEDAE representatives, these cases and the constitutive elements of the discrimination facts were analysed to identify where we are with regards to discrimination or if we are outside this field.

Subsequently, the cases for solving before the Council of Moldova were analysed, while identifying solutions for combating such cases of language discrimination or any other criterion associated with it.

During the 18 and 19 September, 2017 the seminar “Applying European Union -Discrimination Legislation” took place in Trier and was organized by the Academy of European Law, attended by the president of N.C.C.D. .

The seminar focused on the link between European legislation on equal treatment and the Charter, the European Convention and the United Nations human rights treaties.

The seminar was structured on several sessions, each having a different theme. The areas addressed encompassed: European Union legislation on equal treatment and its interaction with the European Charter and European Treaties, European directives but also international instruments (Council of Europe, United Nations, international labour organizations); Definitions of key concepts such as direct discrimination, indirect discrimination and harassment; Probation of facts of discrimination, reversal of the burden of proof as well as access to proof, evidence; Identify the effectiveness of law enforcement through remedies and sanctions; Practical application on a case against anti-discrimination legislation; European

Court of Justice case law on discrimination based on race and sexual orientation; Freedom of religion at work in Europe; Concepts on disability and reasonable accommodation in European law and in the Convention on the Rights of Persons with Disabilities; Case law of the European Court of Justice on Age Discrimination.

On September 28, 2017, ECRI (European Commission Against Racism and Intolerance) organized in Bratislava together with the Slovak National Centre for Human Rights a round table on “Combating racial discrimination and intolerance in the Slovak Republic” following the publication of the report on the situation in Slovakia.

As a result of the invitation received from the Slovak National Centre for Human Rights, the N.C.C.D. representatives that attended the meeting were the president of the institution, the manager of the Legal Department and the Cabinet Manager.

The purpose of this round table was to identify solutions for implementing ECRI’s recommendations in the Report on the institutional and legislative framework for combating racism and discrimination on the basis of race but also the hate speech.

The event was attended by relevant actors at national level, representatives of the institutions involved in combating discrimination and legislative harmonization, representatives of the media and civil society active in respect of human rights.

The agenda included both ECRI presentations as well as interactive discussions on the measures to be taken following the recommendations contained in the Report, the challenges that may arise in future legislative changes, the effectiveness of the equality body in the Slovak Republic and the fight against hate speech in terms of the race criterion.

During 25 and 26 October 2017, Geneva held the 121st session of the UN Human Rights Committee, where Romania supported its fifth regular report on the International Convention on Civil and Political Rights (ICCPR).

This event was attended by the N.C.C.D. president, as an expert, within the official delegation of Romania. The delegation also included representatives of ANES, the People’s Advocate, the State Secretariat for Cults, the NAR, the MIA, the Prosecutor’s Office attached to the HCCJ, the Ministry of Justice, the MEN and the Ministry of Health, the delegation being headed by the MEA.

The action took place within two days of the CCPR members’ wish to grant delegations more time between the two meetings, to coordinate and prepare the answers. Romania was examined by a Task Force, consisting of 5-6 members.

The meeting started with an intervention by the head of the Romanian delegation on the latest developments in the implementation of the UN Convention on Civil and Political Rights, registered since the submission of LOIPR to the moment of the report’s presentation.

Following the presentation held by the Head of Delegation, Task Force experts have asked questions, grouped to cover all areas of the Convention, divided into two groups. The questions were addressed successively so that the delegates had the time to coordinate the answers.

Questions from Task-Force members were based on the LOIPR and the responses were written by the Romanian side and concerned details to deepen the way Romania implemented the provisions of the Convention. There were also follow-up questions formulated by the other members of the Committee (not members of the Task Force) to which the members of the Romanian delegation had to answer.

At the end of the debates, the Head of Delegation presented his final remarks and the Committee Chairman summarized the main points of the debate.

The examination works of the Romanian report could be watched live, through the UN web-cast network since it was a public meeting.

As regards the scope of the Council, the questions targeted the fact that none of the competent institutions was accredited according to the requirements of Paris - the Committee encouraging the accreditation of these institutions; discrimination against Roma, still existing, the segregation of children belonging to this community - the Committee encouraging measures to combat these forms of discrimination; police abuses towards the Roma population - the Committee suggesting that such offenses be properly investigated and respect human rights; discrimination and violence against LGBTI people - the Committee encouraging measures to combat stereotypes and to properly investigate such offenses; discriminatory treatment of people with HIV / AIDS in the field of medical and reproductive services - The Committee encourages efforts to ensure that HIV / AIDS infected women have access to specialist health services and discrimination against people with disabilities in the field of work and education, and accessibility - The Committee suggests stepping up measures combating discrimination in these areas and access to public transport.

On 21 November 2017, the Court of Justice of the European Union in Luxembourg held a hearing of the pleadings in Case C-673/16 Coman e.a. The case was referred to the EUJC by the Constitutional Court of Romania by asking four preliminary questions on the implementation of Articles 2, 3 and 7 of Directive 2004/38 / EC, read in conjunction with Articles 7, 9, 21 and 45 of the Charter of Fundamental Rights of the European Union, with reference to the indirect rejection by the Romanian Immigration Inspectorate, in response to a request for information, of the possibility of granting a temporary residence permit to one of the petitioners, who is an American citizen married to a Romanian citizen of the same sex, the marriage being concluded in Belgium.

At the hearing, the National Council for Combating Discrimination was represented by the president of the institution, as a barrister, the Manager of the Legal Department and the Cabinet Manager, as experts.

The hearing took place in the reunited Chambers of the Court and covered the submissions of the parties and States wishing to intervene in the present case. After the first plea, the members of the Court asked additional questions to those present, in order to clarify some issues due to the solution.

The position advocated by the Council as an expert national institution, amicus cure, was to include the inclusion of same-sex couples within the scope of Directive 2004/38 / EC in order to ensure the right to respect for and protection of human dignity and respect for pri-

vate and family life, provided for in art. 1, respectively art. 7 of the Charter of Fundamental Rights of the European Union, the right to non-discrimination - Article 21 of the Charter and the limits of the primary competence of the Member States in the definition of marriage and other forms of civil union, respectively the regulation of the legal effects of these institutions, and art. 6 (1) TEU and Art. 51 of the Charter.

The conclusions in this case will be delivered in January 2018.

On 28-29 November 2017, the seventh series of bilateral meetings between experts of the two institutions took place at the Council for Prevention and Elimination of Discrimination and Equality Assurance in Chisinau.

The meeting focused on the findings of a study conducted in 2016 that people living with HIV / AIDS are among the most discriminated groups, almost unanimously rejected, as is the case with sex minorities, drugs and alcohol users. For the EDPS, combating forms of discrimination for these people represent a current challenge.

The N.C.C.D. experts have exposed the results of the survey and an opinion barometer conducted in Romania, according to which in the last years the same categories are also the most discriminating at national level.

The causes of such perceptions, the creation of stereotypes and prejudices, but also the best solutions to combat discrimination have been analysed. The cases of discrimination in both Romania and Moldova have been analysed and the judgments have been pronounced.

Experts from Romania have provided examples of actions and campaigns to combat discrimination against HIV-infected and drug-using people. The discussions focused on the Summer School organized by the N.C.C.D. with the Faculty of Sociology in Bucharest where this year even Mr Yan Feldman participated, and where the themes approached were specifically about these categories of people and the measures that should be taken to protect them.

Between December 19-20, 2017, the Council of Ministers for the Prevention and Elimination of Discrimination and Equal Treatment held the last bilateral meeting in 2017 between the experts of the two institutions in Chisinau, Republic of Moldova.

The meeting aimed at a retrospective analysis of the challenges the CPEDAE faced during the year, the institutional evolution and the weaknesses of the institution at that time.

The N.C.C.D. experts also presented the results of the activity during the year, making a comparative analysis between the activities of the two institutions.

Solutions were identified for the institutional development of the Council of Moldova, cooperation with the political environment, as well as with the civil society active in the field of human rights observance.

The representatives of the two institutions proposed to continue the actions regarding the mutual assistance during 2018, the meeting aiming to contribute to the integration in the European Union, to the correct implementation of the European legislation, through legislative amendments and the Community Acquis, N.C.C.D. already having this the experience.

European Network of Equality Institutions in the European Union (EQUINET)

The National Council for Combating Discrimination is a member of the European Network of Equality Institutions in the EU (Equinet).

EQUINET is a non-profit international organization that connects 45 organizations from 33 European countries, which have as their objective to combat discrimination.

In order to facilitate the exchange of information and experience, EQUINET members have implemented an electronic knowledge management system, aiming both at creating a relevant source for legislation and policies and at developing a set of tools and procedures to guide the dialogue towards priorities members of the organization.

Another aspect of EQUINET's activities is to implement a network-based approach that encourages contacts between participants at all levels of dialogue, through direct interaction or electronic communication. Contacts take place at the level of the annual General Assembly or of working groups as well as through the implementation of a regular training plan with the support of the organization's secretariat.

Working Group on Enforcement

The Seminar "National Equality Bodies Against Discrimination of People with Intellectual Disabilities" organized by the EQUINET Network and the Croatian People's Advocate for People with Disabilities took place in Zagreb on 09-10 March.

The event was attended by 47 representatives of the equality bodies and experts, the Manager of the Legal Department and the Cabinet Manager participated on behalf of the N.C.C.D.

The main objective of this event was to strengthen the individual capacity of each equality expert to address discrimination of people with intellectual disabilities.

In particular, the seminar's activities aimed at helping equality bodies to understand and clarify the main concepts of discrimination against people with disabilities, to provide them with a practical guide on how to address the discrimination of people with intellectual disabilities from a legal perspective, public policies and communication, and stimulate and support peer learning.

The conclusions of the seminar were: Children with disabilities should go to the same school with the other children (inclusive education system); Everyone should be able to decide on their own lives, including where and with whom they want to live; Some people with intellectual disabilities need support, but they do not need others to have control over their lives; People with intellectual disabilities need information on how to proceed if they suffer discrimination or abuse; Information about their rights must be written in an easy to understand way. The seminar also addressed the issue of women with disabilities (multiple discrimination on grounds of gender and disability) and of those who give birth because in many countries they are not allowed to keep the child.

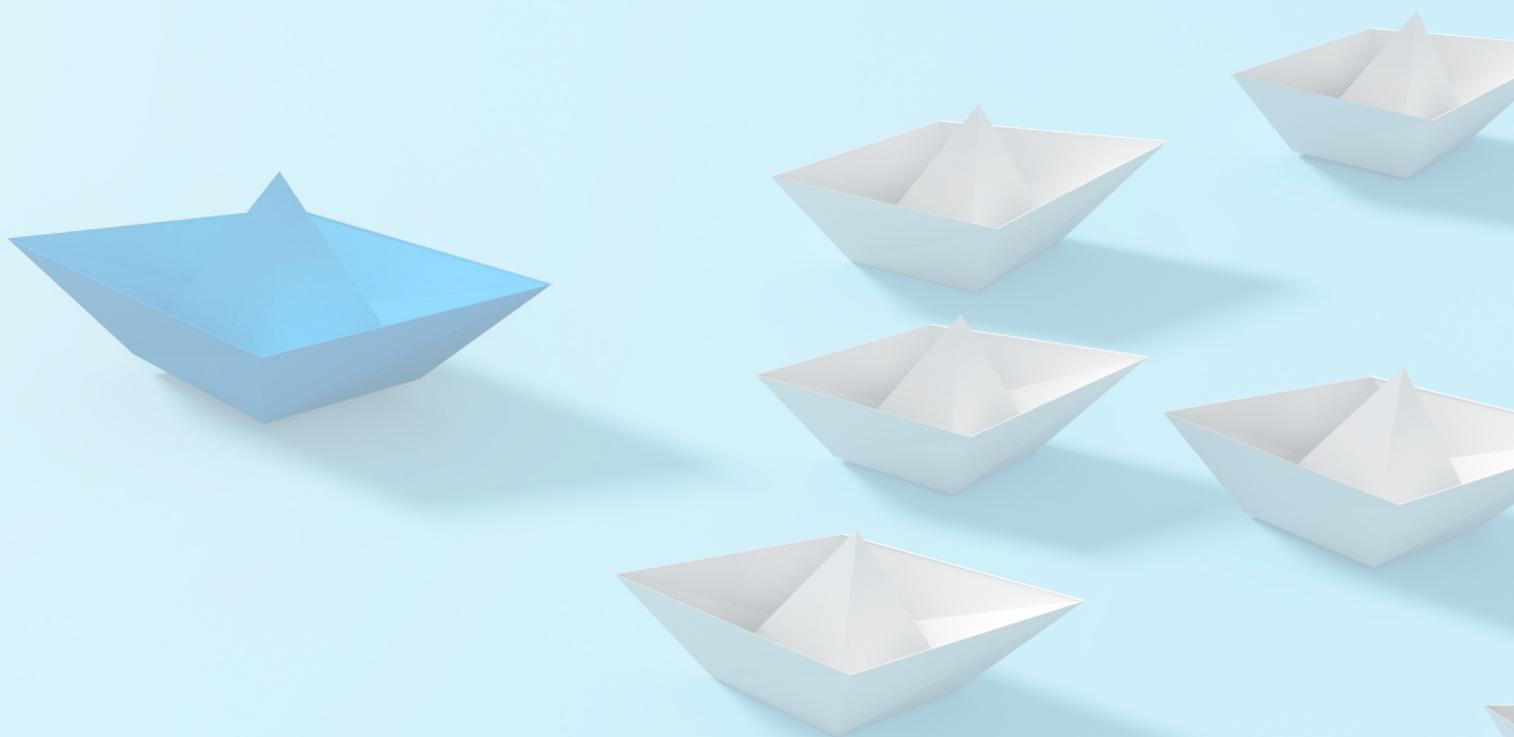
Working Group on Policy Formation / Development

This group is a platform for dialogue with the European institutions, which supports the formation of equal opportunities and non-discrimination policies at European level.

In September, the Equinet meeting of the Policy-Making Working Group, an event organized by Equinet and the Ombudswoman Bureau Croatia, took place in Zagreb. The discussions were moderated and analysed by Tena Simonovic Einwalter from the Ombudswoman Office in Croatia, Niall Crowley of Ireland, Jessica Machacova and Tamas Kadar from the Equinet Secretariat (Belgium), with the participation of another 14 representatives of the institutions in Albania, Sweden, Ireland, Poland, Slovenia, Romania, Hungary, Serbia, Bulgaria, Great Britain, Greece, Germany, Austria and Malta. The deputy chairman of Bulgaria's Anti-Discrimination Commission also participated. Lastly, representatives of the Croatian Ombudsman, including the Ombudsman for People with Disabilities, were present.

In the beginning they debated the news that emerged in each institution since the previous meeting, on behalf of the Council, the representative of the Directorate of Programs and International Relations spoke about the Family Coalition and the referendum amending and changing the Constitution - 3 million signatures, such as and the axiological disputes on this subject, although the Civil Code states in Article 27 that the institution of marriage has as actors a man and a woman. He also announced the election of a new vice-president, the finalization of the 2007-2015 case law website www.nediscriminare.ro through EEA grants and the possible reorganization of the institution under Directive 2014/54 / EU. According to the Directive - signed by 26 countries - national mechanisms to implement it had to be set up by 2015. There are two countries that have not yet established these mechanisms: Luxembourg and the Czech Republic.

Discussions were then held on the links between equal opportunity institutions and people's advocates.



National Council
for Combating Discrimination
in the written press

Monitoring period: January-December 2017

- ▶ **108 monitored items refer to the N.C.C.D. 's activity**
- ▶ **17 monitored articles refer to the president of the institution**
- ▶ **National publications monitored: Adevărul, Cotidianul, Curentul, Curierul Național, Evenimentul Zilei, Gazeta Sporturilor, Gândul, HotNews, Jurnalul Național, Mediafax, ProSPORT, România Liberă, Ziare.com**
- ▶ **N.C.C.D. was most often mentioned in the publications: Adevărul, Evenimentul Zilei and România Liberă.**

The main articles in the print media during the monitored period, related to the sanctioning activity of the institution:

- ▶ **N.C.C.D. sanctioned a case of racial segregation that was discovered at a school unit in Iasi.** The “Bogdan Petriceicu Hașdeu” School and IȘJ Iasi County School Inspectorate received a fine of 3,000 and 5,000 lei, respectively, after it was found that Roma students are distributed in buildings different from those in which Romanian pupils learn.
- ▶ **The “Coalition” for demonizing a child with disabilities, fined for N.C.C.D. discrimination.** Teachers of a Botoșani general school, as well as a group of parents, were sanctioned by the National Council for Combating Discrimination after having campaigned to exclude a child with Down syndrome from school.
- ▶ **Judicial decision: A top school introduced discriminatory criteria for enrolling children in the zero class.** The Timișoara Court of Appeal issued the first sentence in a case in which the Carmen Sylva Pedagogical High School in Timișoara challenged a fine of 2,000 lei received from the National Council for Combating Discrimination. The high school has been fined for imposing criteria for enrolment in the zero class, considered discriminatory. The judges decided that those criteria were indeed discriminatory. The sentence is not final.

► **The National Council for Combating Discrimination fined FC Voluntari with 10,000 lei for harassing a footballer.** The Steering Board of the N.C.C.D. has adopted the decision to apply a fine of 10,000 lei for the Voluntari club, accused of “direct discrimination and harassment” of the player Laurentiu Iorga.

► **The neurosurgeon physician Leon Dănilă, PNL senator, was sanctioned with a warning by the National Council for Combating Discrimination,** after making discriminatory statements against women in an interview last year for adevarul.ro. He said, among other things, that “women are not good surgeons”, “(...) they have no talent.”

► **Directors and a teacher from a school in Galati, fined for discrimination against a girl with Asperger’s Syndrome.** The National Council for Combating Discrimination sanctioned an educator and two directors from a school in Galati, with a fine of 1,000 lei each, for active and passive discrimination in case of a girl with Asperger syndrome.

► **The National Council for Combating Discrimination responded** after the publication of a record on the internet by the vlogger Milițianul, who claimed that he had not been served by a shopkeeper in Odorheiu Secuiesc because he spoke in Romanian. Following the analysis of the record, the College found that the man who filmed the incident at the Kaufland store in Odorheiu Secuiesc was not discriminated against and there was no differentiated treatment and that “the refusal to access the Grill point services was not due because the author of the test belonged to nationality or because of the Romanian language, but because the request was made before the start of the work program.”

► **Mayor of Braila fined 10,000 lei for discrimination against persons with locomotory disabilities.** The Mayor was sanctioned by the National Council for Combating Discrimination because persons with locomotory disabilities cannot travel to Braila with the tram, since no access ramps are provided in the means of transport.

► **N.C.C.D. fined a Facebook page with 5,000 for a sexist joke.** The N.C.C.D. fined the Facebook page “Promotional Rope” for a collage with the message “Do you beat the man twice a day? At least change your makeup! “

► **The Mureș School Inspectorate fined with 2,000 lei for discrimination.** The National Council for Combating Discrimination fined with 2,000 lei the Mureș School Inspectorate for Discrimination, because it offered fewer places for the 8th grades classes with teaching in Hungarian compared to the number of pupils who finish the 8th grade.

Financial and personal data

2017 Payments

		Thousand RON	
	Budget code	Distributed	Used
	51.01		
Staff expenses	10	4553	4515
Goods and services	20	904	855
Transfers	55	5	5
Project financed from external funds	56	45	33
Project financed from external funds	58	27	0
Other expenses	59	162	154
Capital expenses	71	12	12
Payments from previous years	85		-150
Total		5708	5424
External non-reimbursable fund	51.08		
Project financed from external funds		148	0
Total N.C.C.D. budget		5856	5424



The N.C.C.D. comprises **89** posts, of which **70** posts were funded in 2017, at the end of the year **67** posts were occupied.



The average age of the employees is **42** years.

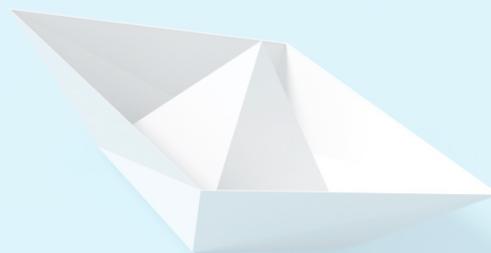
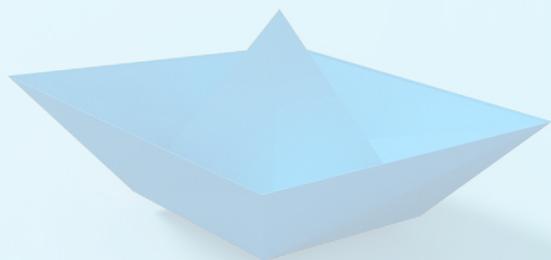


**The share of employees with higher education
is 92,54%, the remaining 7,46%
have secondary education.**



CONSILIUL NAȚIONAL PENTRU COMBATEREA DISCRIMINĂRII





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