



European network of legal experts in gender equality and non-discrimination

NEWS REPORT

Country:	Romania
Title:	Proposed amendments to the Anti-discrimination Law
Date:	28 May 2015
Expert:	Romanița Iordache
Context	
Issue at stake:	Proposed amendments on “disposition to discriminate”, indirect discrimination, multiple discrimination, discrimination by association, psychological harassment, justifications accepted in discriminating and status of magistrates for the members of the Steering Board of the NCCD
Ground of discrimination:	Multiple discrimination, all grounds
Source:	Legislation
Field:	Other – all fields
Applicable law:	Government Ordinance 137/2000 – Romanian Anti-discrimination Law

Content

Law: Nine deputies and senators submitted a draft bill amending the Anti-discrimination Law. The text is currently under review in the chambers of the Parliament and was never publicly discussed with the NCCD or with NGOs working on anti-discrimination issues.

Amendments are proposed regarding the list of protected grounds covered by the prohibition of “disposition to discriminate” (an altered form of prohibition of instigation to discrimination), indirect discrimination, multiple discrimination and genuine occupational requirements. However, an analysis of the text shows that the list of grounds is the same as the current one and there is actually no change. The supporting documents and the opinion of the Legislative Council do not provide any information regarding the need for or the purpose of mentioning an extended list of grounds which in practice is already covered. The text mentions the “disposition to discriminate” which is currently not fully compliant with the definition of instruction to discriminate.

Positively, the draft introduces a prohibition of discrimination by association currently missing in the Romanian legislation, although the NCCD’s and courts’ jurisprudence have sanctioned discrimination by association as direct discrimination. Also a new concept to be introduced in the law is that of psychological harassment defined as “the deed of the person who repeatedly has an intimidating conduct affecting the emotional state of a person and triggering a state of fear.” It is unclear how this new concept adds to the already existing definition of harassment.

The draft also aims to change the process of selection of the members of the Steering Board with the final decision being taken not by the plenary of the Parliament as currently provided by the Law in Art. 23 but by the joined Permanent Bureaus of the

Parliament. The draft proposes that the period spent as member of the Steering Board of the NCCD for graduates of Law Schools is to be considered experience as magistrates while for graduates of other faculties the period of the mandate is to be considered as experience in their specialty.

Key points of analysis: The proposal brings quite a lot of uncertainty as it claims to amend provisions already clear but brings new concepts such as psychological harassment and fails to address missing concepts in the law such as segregation, instruction to discriminate or reasonable accommodation. The proposed changes in the selection process regarding the NCCD Steering Board members moves the decision from the plenary of the Parliament to the Permanent Bureaus of the Parliament which are political bodies with little transparency and accountability.

Internet link source: Draft bill, supporting documents and legislative developments can be found at http://www.parlament.ro/pls/proiecte/upl_pck.proiect?idp=14626.