



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

NEWS REPORT

Country:	Romania
Title:	The Prime Minister calling political critics pejoratively as "autistic" does not amount to discrimination finds the national equality body
Date:	6 March 2018
Expert:	Iordache, Romanița
Context	
Issue at stake:	Balancing freedom of speech with prohibition to discriminate and the right to dignity
Ground of discrimination:	Disability
Source:	National equality body decision
Field:	Other - Right to dignity
Applicable law:	Governmental Ordinance 137/2000, Romanian Anti-discrimination Law

Content

Case development: On 15 February, in her first interview on TV as Romanian Prime Minister, Viorica Dăncilă defined as "autistic" the other MEPs and political opponents who criticize the Social Democrat government. Her statement was "These people disinform. They know the reality, but they do not want to accept it and do not want to see it. I believe these people are autistic and do not see and do not hear what it is obvious for all those of good faith." Following this statement, hundreds of complaints had been filed with the National Council for Combating Discrimination both by private individuals, mostly parents of children with disabilities, as well as NGOs providing support services to persons in the autistic spectrum. The NCCD also started an investigation on its own.¹

The Prime Minister later apologized publicly in an official statement and met with representatives of some NGOs who previously filed a petition with the government. This petition had more than 13,000 signatures and explains the negative impact of the new fiscal legislation on the NGOs providing support services for persons in the autistic spectrum and asks for concrete measures. No legislative or policy changes have yet been adopted following the meeting from 23 February.

Decision of the equality body: On 26 February, in the absence of the Prime Minister and without inviting the claimants to the hearings, the NCCD Steering Board decided with seven out of eight members present that no discrimination occurred. The only vote against was filed by the President of the NCCD who argued that the adequate remedy would be an administrative warning. His argumentation, later presented to the media which widely reported on the case, was that given the position of visibility and

¹ <http://www.cncd.org.ro/2018-02-16-comunicat-de-presa-referitor-la-declaratia-doamnei-prim-ministru-dancila-viorica-vasilica-din-data-15-februarie-2018>.

responsibility of the Prime Minister, her freedom of expression should be exercised in a more responsible manner.

The decision of the NCCD is not final and can be attacked before the Court of Appeal Bucharest in the administrative procedures. Some of the complainants already announced publicly their intention to challenge the NCCD decision.

Key points of analysis: While in the past the jurisprudence of the NCCD on cases balancing freedom of expression with the right to dignity and the prohibition of discrimination was uneven and questionable, this decision was criticised widely as a political decision, in which freedom of expression was used only as a justification of discriminatory speech which leads to further marginalization of a group already in an extremely vulnerable situation. The reasoning of the decision is not yet public.

Internet link source: press release of the NCCD available in Romanian at <http://www.cncd.org.ro/2018-02-26-comunicat-de-presa-referitor-la-hotararea-adoptata-de-colegiul-director-al-cncd-in-edin-a-din-data-de-26-02-2018>.