



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

### NEWS REPORT

<b>Country:</b>	Romania
<b>Title:</b>	NCCD jurisprudence on ensuring accessibility of public transportation reversed
<b>Date:</b>	17 May 2018
<b>Expert:</b>	Iordache, Romanița
<b>Update of news report:</b>	<a href="#">Romania - National equality body sanctions 39 mayors of main cities in the country for failure to ensure accessibility in an ex officio case (PDF 57kB)</a>
<b><u>Context</u></b>	
<b>Issue at stake:</b>	Failure to ensure accessibility to public transportation for persons with disabilities. Politicization of the NCCD Steering Board leading to reversal of solid jurisprudence on accessibility
<b>Ground of discrimination:</b>	Disability
<b>Source:</b>	NCCD national equality body decision 170 from 09.05.2018 in file number 575/2017
<b>Field:</b>	Access to goods and services
<b>Applicable law:</b>	Art. 2(1), 2(4), 10, 15 of the Governmental Ordinance 137/2000, Art. 9, 19 and 20 of Law 221/2010 ratifying the UN Convention on the Rights of Persons with Disabilities, Art. 6, 9, 22 of Law 448/2006 on the Rights of Persons with Handicap

### **Content**

**Case law development:** Following a petition filed with the NCCD (the national equality body) by an individual complainant against Bucharest, Brașov and Pantelimon municipalities, the NCCD Steering Board decided on 9 May 2018 that the failure of public authorities to ensure accessibility of public transportation for people with disabilities does not amount to discrimination. The petitioner complained against the lack of accessible buses in the three municipalities. his decision contradicts a well-established line of jurisprudence of the NCCD on accessibility of public transportation for people with disabilities. For example, in 2014, the NCCD sanctioned 39 mayors of the main cities in Romania as well as the relevant national authority - the National Agency for Payments and Social Inspection, following an ex officio investigation in all capital cities for all the counties in Romania for failure to ensure access to public transportation for persons with disabilities. At that time, as well as in subsequent decisions monitoring the way in which the NCCD recommendations were observed by local public authorities, the NCCD found that failure to ensure accessibility in public transportation for people with disabilities amounted to direct discrimination on the ground of disability by limiting access to

services and infringed the right to dignity. All these decisions had been confirmed by courts when challenged.

**Key points of analysis:** The reasoning of the NCCD, invoking a failure of the complainant to thoroughly provide evidence of the relevant facts needed to individualize the misdemeanour, ignores the fact that the claimant provided for the number of the bus line in question. This argument also fails to take into consideration the systemic failure of the authorities to ensure accessibility of public transportation for persons with disability as suggested by the official responses of the defendants. It also suggests a departure of the NCCD from applying the principle of the sharing of the burden of proof adequately. Members of the NCCD publicly stated that this was a political decision as the majority of the Steering Board members who were appointed in the NCCD by the governing coalition refused to issue another decision sanctioning the mayor of Bucharest who is a key political leader of the Social Democrat Party.

**Internet link source:** No recent decision of the NCCD is available on internet but the decisions are communicated to the parties.