



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

NEWS REPORT

Country:	Romania
Title:	Constitutional Court revokes the mandate of one of the members of the Steering Board of the NCCD
Date:	21 June 2018
Expert:	Iordache, Romanița
<u>Context</u>	
Issue at stake:	Composition of the Steering Board of the national equality body
Ground of discrimination:	All grounds
Source:	Decision of the Romanian Constitutional Court
Field:	All fields
Applicable law:	GO 137/2000 Art.23 (4) on minimum requirements for appointment and Art. 27(1) of Law 47/1992 of the Constitutional Court

Content

Case: Art.23 (4) of GO 137/2000 establishes that when appointing new members for the Steering Board of the NCCD, the Parliament should make sure that a minimum of two thirds of the members are law graduates. However, in spite of protests of NGOs, in 2015, 2017 and 2018 the ratio of 2/3 was not complied with and currently for example 4 out of the 9 members of the NCCD Steering Board do not have a law degree.

The parliamentary group of the Liberal Party challenged before the Constitutional Court the last two decisions appointing members in the NCCD Steering Board. In its complaint the Liberal Party invoked the failure to observe this requirement, as well as the requirement of having prior relevant experience in the human rights or anti-discrimination field. An amicus curiae submitted by the NGO Anti-discrimination Coalition also presented to the Constitutional Court arguments regarding the illegality of the appointment procedures. The NGOs argued that the failure to observe the legal requirements lead to the politicization and de-professionalization of the national equality body.

Decision of the Court: On 21 June, while the Constitutional Court of Romania rejected a complaint concerning the appointment of a NCCD member made in 2017 because the ratio of 2/3 was being complied with at that time, it also found a violation of the law in another appointment decision made in 2018 for lack of compliance with the 2/3 ratio of law graduates. The Court annulled the parliamentary decision which de facto leads to the revocation of the mandate of that NCCD member. While the full reasoning of the RCC has not been published so far, the press release of the court clarifies that the requirement of a minimum of two thirds members with a law degree is mandatory.

Key points of analysis: The reasoning is not publicly available yet. The key argument seems to be that the requirement of having two thirds law graduates in the Steering

Board is not a mere recommendation, but a legal obligation meant to secure the effectiveness and legitimacy of an administrative-jurisdictional body.

Internet link source: <https://www.ccr.ro/noutati/COMUNICAT-DE-PRES-313>.