

Bucharest, 15 June 2011

ARE WE ALL EQUAL BEFORE THE NATIONAL COUNCIL FOR COMBATING DISCRIMINATION?

*The NCCD administers in a preferential and politicized
manner the cases which involve high state dignitaries*

The Center for Legal Resources (CLR) and Romani CRISS manifest their concern with regards to the way in which the National Council for Combating Discrimination (NCCD) decides on cases concerning high dignitaries of the Romanian state.

On May 4, 2011, the NCCD gave a decision in which it declared itself as not having the territorial competence to decide on the petition filed by Romani CRISS against President Basescu, for the prejudicial, stereotypical and racist declarations made during his visit in Slovenia concerning the Roma minority.¹ CLR intervened in the case, in support of Romani CRISS.

The Council admitted the exception of the lack of territorial competence, an exception raised by the NCCD *ex officio*. In the motivation for the decision it was shown that, since the deed happened on the territory of another state, the Romanian contraventional law could not be applied, without taking into account that the effects especially happened in Romania and that Romanian journalists were present at the events. Furthermore, the NCCD, invoking the lack of territorial competence in this case, treated the act of discrimination and infringement on the right to dignity done by President Basescu as a regular contraventional act, in effect placing the racist declarations on the same level as parking in places where parking is not allowed. That this is not correct is evident from NCCD jurisprudence itself.

“Amazingly” enough, the exception of territoriality was not invoked by the Council also in cases which did not involve persons with high positions. Mr. Ilie Nastase, while in Paris, made certain statements regarding the Roma and Hungarians in Romania. Without the benefit of “favourable” exceptions from the NCCD, as was the case for President Basescu, Ilie Nastase was justly fined with the sum of 600 lei for the statements he had made.²

A second aspect of the differential treatment which we would like to signal regards the terms of solving the cases. Thus far, the NCCD seems to have found “resources” in order solve in a relatively short time span the majority of files involving high dignitaries of the Romanian state. Not the same however happens in other cases signalled by Romani CRISS,

¹ We would like to mention that President Basescu made reference to nomadic Roma, presenting them as difficult to integrate, not wanting to work and traditionally criminals. More precisely, upon an official visit to the Republic of Slovenia, on 03.11.2010, the President declared: “We have one more problem which must be stated and which makes the integration of nomadic Roma difficult – very few of them want to work. Many of them, traditionally, live off what they steal.” Referring to his own initiatives, as mayor of Bucharest, to offer jobs to the Roma who had settled at the outskirts of the city, the president stated: “They did not like it and they went elsewhere. Of course, it was a kind of work in conformity with their qualifications – in waste collection services. Therefore, the problem needs to be seen in its entirety and if we only limit ourselves to saying what we must do, but not also to what they must do, we will not solve the problem” according to Mediafax.ro, *Basescu: mulți dintre romii nomazi, “în mod tradițional, trăiesc din ceea ce fură”/ “Basescu: many of the nomadic Roma live off what they steal”, 03.11.2010, available at: <http://www.mediafax.ro/social/basescu-multi-dintre-romii-nomazi-in-mod-traditional-traiesc-din-ce-fura-7689349/>*

² Mediafax.ro, Ilie Nastase amendat de CNCD pentru declaratiile despre deportarea romilor [Ilie Nastase fined by the NCCD for the declarations on deporting the Roma], available at: <http://www.mediafax.ro/social/ilie-nastase-amendat-de-cncd-pentru-declaratiile-despre-deportarea-romilor-7834969>.

where the files remain without a solution for a long while beyond the legal 90 day term, even when the gravity of the deeds is very serious, such as the cases of school segregation of children based on ethnic grounds.³

Thus, the petition of Romani CRISS against President Traian Basescu for the act done in 2007 was decided in only 2 days⁴, and the one against Prime Minister Calin Popescu Tariceanu in 14 days⁵. In a “shocking” way, the Roma children did not benefit from the same “attention” from the NCCD, although they were being submitted to a serious form of discrimination through ethnic segregation. It thus took the NCCD 495 days (1 year 4 months and 9 days) to decide on the petition of Romani CRISS against School No. 19 from Craiova and others⁶ and 503 days (1 year 4 months and 17 days) to decide on the petition of Romani CRISS against the Dumbraveni Special School Group and others.⁷

In conclusion we witness a gross difference in treatment which the NCCD must justify in a way which removes any trace of suspicion of favouring high dignitaries of the state to the detriment of the regular citizen.

We also reiterate the evaluations of the US Department of State who took into account the criticism brought to the NCCD by Romani CRISS regarding the “*appointment of CNCD board members proposed by political parties, arguing that this violated the principle of the body's independence and that some of the appointees lacked expertise in the human rights area*”.⁸

We ask the President of the NCCD and the members of the Steering Committee to publicly present the way in which the NCCD has administered the cases which involved high officials of the Romanian state and to adopt a plan of institutional reform aiming at the depoliticization of the institution and at the impartial decision making process and within a reasonable term on all cases, regardless of the quality of public dignity or not which the parties in the file hold.

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³ A case of discrimination existing in School 19 from Craiova, signalled to the Council on February 7, 2007, received a solution on June 16, 2008.

⁴ The petition was filed by CRISS on May 21 2007 and received a decision from the NCCD on May 23 2007.

⁵ The petition was filed by CRISS on July 3, 2007 and received a decision from the NCCD on July 17, 2007.

⁶ The petition was filed by CRISS on February 7, 2007 and received a decision from the NCCD on June 16, 2008.

⁷ The petition was filed by CRISS on January 25, 2007 and received a decision from the NCCD on June 11, 2008.

⁸ See the US Department of State Report on Human Rights Practices for Romania, 2010, available at: <http://www.state.gov/g/drl/rls/hrrpt/2010/eur/154446.htm> .