



2021-2022

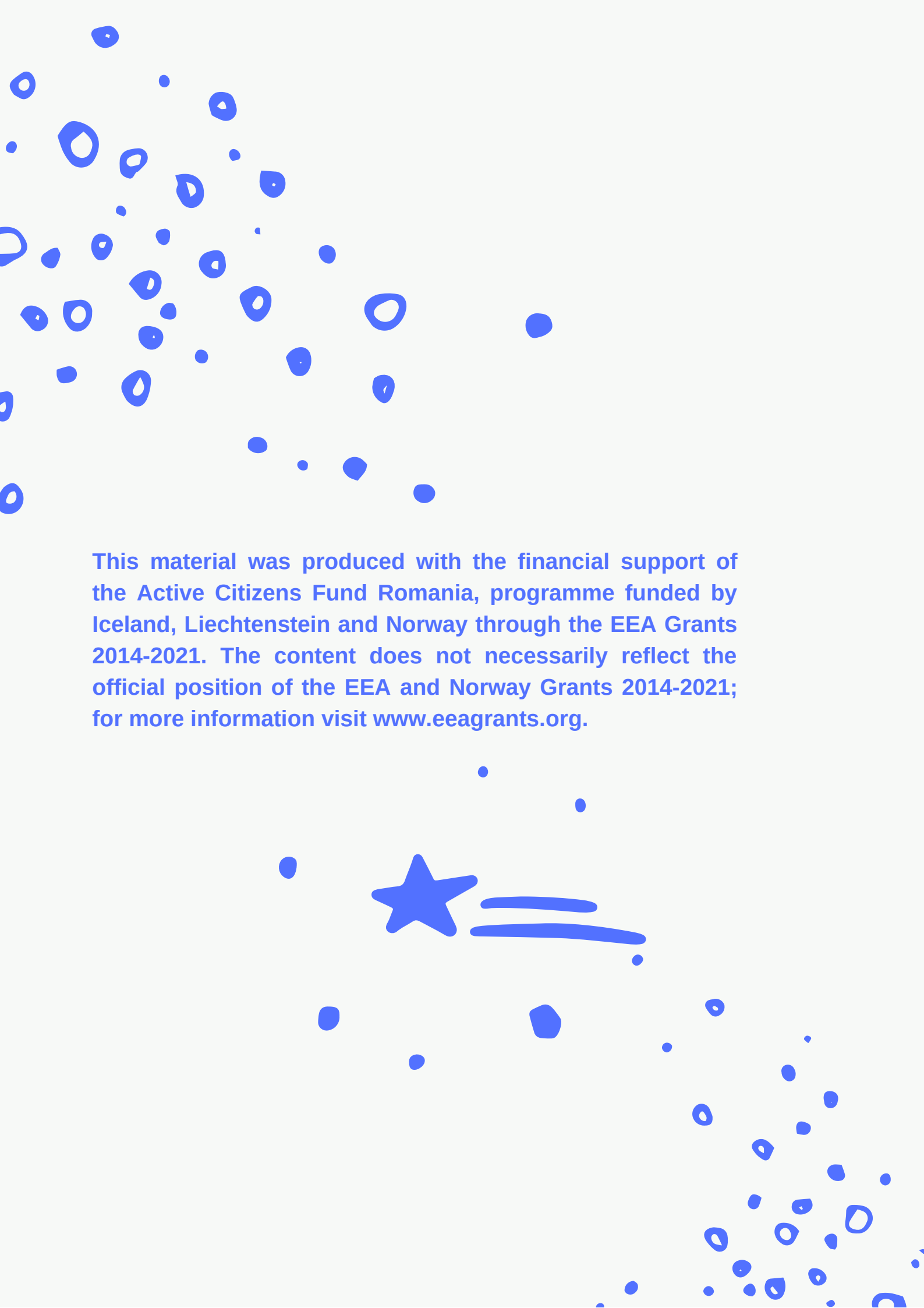
AN OVERVIEW ON HATE CRIME AND HATE SPEECH ROMANIA – COUNTRY PROFILE

Author:
István Haller

Design by
Ana Drulă

Bucharest, February 2023
www.crj.ro

Project implemented by:



This material was produced with the financial support of the Active Citizens Fund Romania, programme funded by Iceland, Liechtenstein and Norway through the EEA Grants 2014-2021. The content does not necessarily reflect the official position of the EEA and Norway Grants 2014-2021; for more information visit www.eeagrants.org.



Table of contents

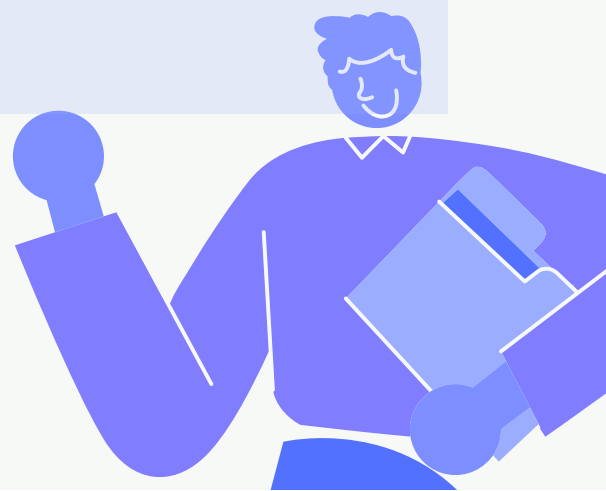
* Foreword	03
-------------------	-----------

I. The Romanian legal framework regarding hate crimes and hate speech

I.1. Hate crimes and the criminal sanctioning of hate speech	
a) Criminal Code	06
b) Legislation on the prohibition of fascist, legionary, racist or xenophobic organisations, symbols and acts and the promotion of the cult of persons guilty of committing crimes of genocide against humanity and war crimes	10
c) Legislation on preventing and combating anti-Semitism	14
d) Legislation on preventing and combating antigypsyism	14
e) Protection of the victim	15
I.2. Sanctioning through administrative fines discrimination that potentially constitutes hate speech	
a) Legislation on advertising	15
b) Legislation on preventing and punishing all forms of discrimination	15
c) Legislation on equal opportunities for women and men	17
d) The Audiovisual Law	19
e) Labour Code	20
I.3. Administrative and disciplinary sanctions in the context of hate speech	20
I.4. Remedies through civil actions	
a) In the case of offences	21
b) Specific procedure in case of hate speech defined as discrimination	22

II. Information on hate crimes and hate speech available in Romania

II.1. Administrative information on hate crime and hate speech	
II.1.1. Hate crimes and hate speech recorded by the police	24



II.1.2. Data on criminal cases related to hate crimes and hate speech at the level of the Public Ministry (Prosecutor's Office of the High Court of Cassation and Justice)	27
II.1.3. Data on criminal files related to hate crimes and hate speech at the level of the Ministry of Justice	41
II.1.4. Data on hate speech reported by the National Audiovisual Council	43
II.1.5. Data on hate speech reported by the National Council for Combating Discrimination	47
II.1.6. Information collected by the National Institute for the Study of the Holocaust in Romania "Elie Wiesel"	72
II. 2. Information collected by international organisations	
II.2.1. OSCE-ODIHR	76
II.2.2. European Court of Human Rights	76
II.2.3. European Commission against Racism and Intolerance of the Council of Europe (ECRI)	80
III.2.4. European Commission	81
II.2.5. European Union Agency for Fundamental Rights (FRA)	86
II.3. Information collected by NGOs in Romania	89

III. Measures to prevent and combat hate crimes and hate speech

III.1. National Council for Combating Discrimination	94
III.2. Alexandru Ioan Cuza Police Academy	96
III.3 General Inspectorate of the Romanian Police — Institute for the Research and Prevention of Crimes	97
III.4. Institute for the Study of Public Order	98
III.5. National Institute of Magistracy	99
III.6. National Institute for Lawyers' Training	100
* Conclusions and recommendations	101

Foreword

This research report has been developed within the scope of the project "Non-discrimination, beyond words" [1], which aims to raise citizens' awareness of the level of acceptance and internalisation of hate speech in the public space and to strengthen their capacity to identify, report and combat hate speech, including by deconstructing the prejudices that support it, prejudices about various groups vulnerable to discrimination, by providing tools and easy access to information.

The report contains an overview and an analysis of the relevant national legal framework, publicly available hate crime data in Romania, and measures to prevent and combat discrimination, hate speech, and hate crime for the period January 2021-June 2022.

Within the same project, a similar report was produced for the period 2016-2020 [2]. Thus, compared to the previous period, this report aims to establish whether and where progress has been made on legislation and implementation of anti-discrimination legislation and provisions from the perspective of hate speech and hate crimes, as well as to identify points where prioritised intervention and lines of action are needed, for policy and decision-makers, state institutions implementing them, as well as people already involved in the anti-discrimination field (NGOs, victims' groups, legal professionals, etc.).

1. This material was produced with the financial support of the Active Citizens Fund Romania, programme funded by Iceland, Liechtenstein and Norway through the EEA Grants 2014-2021. The content does not necessarily reflect the official position of the EEA and Norway Grants 2014-2021; for more information visit www.eeagrants.org. More information about the project is available at: www.crj.ro/en/antidiscrimination/nediscriminarea-dincolo-de-cuvinte/. The original Romanian version of the material is available at www.crj.ro/antidiscriminare/publicatii-si-rapoarte/, published in February 2023; the herein English version was made available in March 2023.
2. CLR Report "Crimes motivated by hate and hate speech. Country profile:2016-2020" "Infrafracțiuni motivate de ură și discursurile urii. Situația din România:2016-2020" available In Romanian at: www.crj.ro/wp-content/uploads/2022/01/Studiu-hate-crimes_mai21.pdf

Terminology

Hate crimes are those offences punishable under criminal law that are driven by the offender's feelings towards a particular community, as determined by a common characteristic, and not personally towards the victim. Criminal law uses the term hate crime for reasons related to a discriminatory criterion (on grounds of race, nationality, ethnicity/ethnic origin, language, religion, gender/sex, sexual orientation, opinion, political affiliation, beliefs, wealth, social background, age, disability, chronic non-contagious disease or HIV/AIDS infection).

Hate crimes are also offences that promote or advocate for xenophobic ideologies. The object of a hate crime, sometimes in addition to the general aim (burning down a house, beating a person), is also a particular social value: mutual respect, multiculturalism, peaceful coexistence, and social stability. Hence the serious nature of these types of crime.

The European Court of Human Rights states: „When investigating violent incidents, such as ill-treatment, State authorities have a duty to take all reasonable steps to uncover any possible discriminatory motives, which the Court concedes is a difficult task. The respondent State's obligation to investigate possible discriminatory motives for a violent act is an obligation to use its best endeavours to do so, and is not absolute. The authorities must do whatever is reasonable in the circumstances to collect and secure the evidence, to explore all practical means of discovering the truth, and to deliver fully reasoned, impartial and objective decisions, without omitting suspicious facts that may be indicative of violence induced by, for instance, racial or religious intolerance, or violence motivated by gender-based discrimination.

Treating violence and brutality arising from discriminatory attitudes on an equal footing with violence occurring in cases that have no such overtones would be turning a blind eye to the specific nature of acts that are particularly destructive of fundamental rights. A failure to make a distinction in the way situations that are essentially different are handled may constitute unjustified treatment irreconcilable with Article 14 of the Convention.” (Stoica v. Romania no. 42722/02, §119, 4 March 2008) [3].

Hate speech is the expression of an individual feeling superior, creating an intimidating, hostile, degrading, humiliating or hurtful atmosphere towards a community or a person because of their affiliation with a community. Romanian law does not provide a definition of hate speech. Harassment and violation of the right to dignity are broader concepts which, in practice, include hate speech. The European Court of Human Rights has established that certain types of language constitute hate speech, which may insult individuals or groups of persons, and that such language does not benefit from the protection of freedom of expression (Jersild v. Denmark, no. 15890/89, 23 September 1994, § 35).

Tolerance [4] and respect for human dignity are the foundation of democracy and of a pluralist society, and it is therefore necessary for democratic societies to sanction any form of expression that disseminates, incites, promotes, or justifies hatred based on intolerance (Gündüz v. Turkey, no. 35071/97, 4 December 2003, § 40). In some cases, failure to sanction hate speech constitutes a violation of the right to family life (*Budinova and Chaprazov v. Bulgaria*, no. 12567/13, 16 February 2021).

3. The principle applies equally where the motivation is not racial but based on "other discriminatory grounds" (Case M.C. and A.C. v. Romania, 12 July 2016, §113). The cited case is available at <http://ier.gov.ro/wp-content/uploads/cedo/Cauza-Stoica-impotriva-Romaniei.pdf>.

4. The word tolerance is used in the sense of the cited ECtHR decision.

Methodology

This report is based on a literature review, carried out by collecting data and information on hate crime and hate speech from online sources, as well as sending public enquiries to authorities that process data on hate crime and hate speech.

List of abbreviations

ACTEDO	Equality and Human Rights Action Centre
ANPC	National Authority for Consumer Protection
CCR	Constitutional Court of Romania
CLR	Centre for Legal Resources
CNA	National Audiovisual Council of Romania
CPFD	Criminal Prosecution and Forensic Department
DAHR	Democratic Alliance of Hungarians in Romania
DIICOT	Directorate for Investigating Organized Crime and Terrorism
ECRI	European Commission against Racism and Intolerance
ECtHR	European Court of Human Rights
EU	European Union
FRA	European Union Agency for Fundamental Rights
GEO	Government Emergency Ordinance
IGPR	General Inspectorate of the Romanian Police
IPJ	County Police Inspectorate
ISOP	Institute for the Study of Public Order
GO	Government Ordinance
HCCJ	High Court of Cassation and Justice
INSHR-EW	National Institute for the Study of the Holocaust in Romania “Elie Wiesel”
MIA	Ministry of Internal Affairs
NCCD	National Council for Combating Discrimination
NGO	Non-Governmental Organisation
NIM	National Institute of Magistracy
ODIHR	Office for Democratic Institutions and Human Rights
OGR	Official Gazette of Romania
OSCE	Organisation for Security and Cooperation in Europe
PMP	People's Movement Party
PCA	Prosecutor's Office attached to the Court of Appeal
POHCCJ	Prosecutor's Office attached to the High Court of Cassation and Justice
PSD	Social Democratic Party
UAT	Administrative territorial unit (town hall)
UCTRR	Civic Union of Roma Youth in Romania
USR-PLUS	The Save Romania Union - Freedom, Unity and Solidarity Party

I. The Romanian legal framework regarding hate crimes and hate speech

I.1. Hate crimes and the criminal sanctioning of hate speech

During the reference period, the definition of incitement to hatred or discrimination was amended to comply with the Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law. At the same time, Law No 2/2021 was adopted on measures to prevent and combat antigypsyism.

a) Criminal Code

Offence motivated by victim characteristics

Law No 286/2009 on the Criminal Code (published in Official Gazette No 510 of 24 July 2009), under aggravating circumstances, Article 77, states: "The following constitute aggravating circumstances: (...) h) the offence was committed for reasons related to race, nationality ethnicity, language, gender, sexual orientation, political opinion or membership, possessions, social origin, age, disability, chronic non-communicable disease or HIV/AIDS status, or for other reasons of the same type, considered by the offender to cause the inferiority of an individual from other individuals."

Abuse of office (by restricting rights)

Criminal Code of 21 July 1968, amended by Law No 278/2006 (published in OGR no. 601 of 12 July 2006), in Art. 247, defines abuse of office by restricting rights: "The restriction by a public official of the exercise of rights of a person or creating for the latter a situation of inferiority on the grounds of race, nationality, ethnicity, language, religion, gender, sexual orientation, opinion, political affiliation, beliefs, wealth, social origin, age, disability, chronic non-contagious disease or HIV/AIDS infection, is punishable by imprisonment from 6 months to 5 years." If the offence has particularly aggravating consequences, it is punishable by 5 to 15 years of imprisonment and forfeiture of certain rights (Article 248).¹

Law No 286/2009 on the Criminal Code (published in OGR no. 510 of 24 July 2009) classified this offence as abuse of office: „The same punishment [between 2 and 7 years of imprisonment and the ban from exercising the right to hold a public office] applies to the action of a public servant who, while exercising their professional responsibilities, limits the exercise of a right of a person or creates for the latter a situation of inferiority on grounds of race, nationality, ethnic origin, language, religion, gender, sexual orientation, political affiliation, wealth, age, disability, chronic non-transmissible disease or HIV/AIDS infection." (art. 297, alin. 2).

Government Emergency Ordinance No 13/2017 amending and supplementing Law No 286/2009 of the Criminal Code and Law No 135/2010 of the Criminal Procedure Code (published in OGR No 92 of 1 February 2017) redefined the offence: "The action of a public official who, in the exercise of his/her duties, restricts the exercise of a right of a person or creates for the latter a situation of inferiority on grounds of race, nationality, ethnic origin, language, religion, gender, sexual orientation, political affiliation, wealth, age, disability, chronic non-contagious disease or HIV/AIDS infection is punishable by imprisonment from one month to one year or a fine".

Torture based on any form of discrimination

Law no. 286/2009 of the Criminal Code (published in the OGR no. 510 of 24 July 2009) defined a specific form of torture: „The act of a public servant holding an office that involves the exercise of state authority or of other person acting upon the instigation of or with the specific or tacit consent thereof to cause an individual pain or intense suffering, either physically or mentally: (...) d) for a reason based on any form of discrimination, shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights." (art. 282, alin. 1)

Incitement to hatred or discrimination

The Criminal Code of 21 July 1968, as amended by Law No. 278/2006 (published in the OGR No. 601 of 12 July 2006), in Article 317 (Instigating discrimination) states: "Instigating hatred on grounds of race, nationality, ethnicity, language, religion, gender, sexual orientation, opinion, political affiliation, beliefs, wealth, social background, age, disability, chronic non-contagious disease or HIV/AIDS infection shall be punishable by imprisonment for a term of 6 months to 3 years or a fine."

The offence was renamed and redefined by Law No 286/2009 of the Criminal Code (published in OGR No 510 of 24 July 2009): "Incitement of the public, by any means, to hatred or discrimination against a category of persons is punishable by imprisonment from 6 months to 3 years or a fine" (Article 369).

Law no.170 /2022 amending Article 369 of Law no. 286/2009 of the Criminal Code (published in the OGR no. 548 of 6 June 2022) redefined the offence (after a series of controversies and CCR rulings) in order to comply with Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law:

"Incitement of the public, by any means, to violence, hatred or discrimination against a category of persons or against a person on the grounds of belonging to a particular category defined by reference to race, nationality, ethnicity, language, religion, gender, sexual orientation, opinion or affiliation, politics, wealth, social background, age, disability, chronic non-contagious disease or HIV/AIDS infection, considered by the offender to be a cause of inferiority of a person in relation to another shall be punishable by imprisonment for a term of six months to three years or a fine".

Preventing the freedom to practice religion

This is not in itself a hate crime, but could potentially become one.

The Criminal Code of 21 July 1968, as subsequently amended (republished in OGR No 65 of 16 April 1997), in Article 318 (Obstructing freedom of religion) para. 1, states: "The act of preventing or disturbing the freedom of exercise of any religious cult, which is organised and functions in accordance with the law, shall be punishable by imprisonment for a term of one month to six months or by a fine".

Law No 286/2009 on the Criminal Code (published in the OGR No 510 of 24 July 2009), Art 381 para. 1 states: "The act of preventing or disturbing the free exercise of the ritual of a religious cult, which is organized and functions according to law, is punishable by imprisonment from 3 months to 2 years or a fine".

Desecration of places or objects of worship, desecration of corpses or graves

The crime, in particular the desecration of places and objects of worship, can be committed out of hatred, but also for other reasons. The Criminal Code of 21 July 1968, as subsequently amended (republished in OGR No 65 of 16 April 1997), in Article 319 (Desecration of graves), defines this offence: "Desecration by any means of a grave, monument or funerary urn or of a corpse shall be punishable by imprisonment for a term of three months to three years".

Law No 286/2009 of the Criminal Code (published in the OGR No 510 of 24 July 2009), Article 382 states: "Desecration of a place or an object of worship belonging to a religious denomination which is organized and functions in accordance with the law shall be punishable by imprisonment for a term of 6 months to 2 years or a fine." Article 383 refers to the desecration of corpses or graves:

„(1) The theft, removal, destruction or desecration of a corpse or of the ashes resulting from its cremation shall be punishable by no less than 6 months and no more than 3 years of imprisonment.

(2) The desecration, by any means, of a grave, of a funeral urn or of a funereal monument shall be punishable by no less than 3 months and no more than 2 years of imprisonment or by a fine."

Genocide

Genocide is fundamentally a hate crime, but it can also be of a different nature [5]. According to the Criminal Code of 21 July 1968, as subsequently amended (republished in OGR No 65 of 16 April 1997), Art. 357:

5. The Ceausescu's were convicted of genocide, but the hate motive cannot be sustained in their case.

„Genocide is fundamentally a hate crime, but it can also be of a different nature. According to the Criminal Code of 21 July 1968, as subsequently amended (republished in OGR No 65 of 16 April 1997), Art. 357: "To commit with the purpose of partially or totally eliminating a national, ethnic, racial or religious community or group of any of the following acts:

- (a) killing members of the community or group;
- (b) serious harm to the physical or mental integrity of members of the community or group;
- (c) subjecting the community or group to conditions of life or treatment likely to result in physical degradation;
- (d) taking measures intended to prevent births within the community or group;
- (e) forcibly transferring children belonging to one community or group to another community or group, shall be punishable by life imprisonment or 15 to 25 years of imprisonment and loss of certain rights.

If the offence is committed in time of war, the penalty is life imprisonment. Conspiracy to commit genocide is punishable by 5 to 20 years' imprisonment and loss of certain rights." According to Law No 286/2009 of the Criminal Code (published in the OGR No 510 of 24 July 2009), Art 439 (Genocide):

"(1) To commit, with the purpose of partially or completely eliminating a national, ethnic, racial or religious group, any of the following acts:

- (a) killing members of the group;
 - (b) causing physical or mental harm to members of the group;
 - (c) subjecting the group to conditions of life which are likely to cause its partial or total physical destruction;
 - (d) imposing measures to prevent births within the group;
 - (e) forcibly transferring children belonging to one group to another group,
- shall be punishable by life imprisonment or imprisonment for a term of 15 to 25 years and loss of certain rights.

(2) If the acts referred to in paragraph (1) are committed in time of war, the penalty shall be life imprisonment.

(3) Conspiracy to commit genocide shall be punishable by imprisonment for a term of 5 to 10 years and loss of certain rights.

(4) Incitement to commit the crime of genocide, carried out openly and in public, shall be punishable by imprisonment for a term of two to seven years and loss of certain rights."

b) Legislation banning fascist, legionary, racist or xenophobic organisations, symbols and acts and the promotion of the cult of persons guilty of genocide against humanity and war crimes



GEO No 31/2002 on the banning fascist, racist or xenophobic organisations and symbols and the promotion of the cult of persons guilty of crimes against peace and humanity (published in OGR No 214 of 28 March 2002) stipulates the following criminal penalties:

- imprisonment from 5 to 15 years and loss of certain rights for establishing a fascist, racist or xenophobic organisation (art. 3, para. 1), respectively joining or supporting such an organisation (art. 3 para. 2);
- imprisonment from 6 months to 5 years and loss of rights for spreading, selling or manufacturing fascist, racist or xenophobic symbols, as well as possessing, with a purpose of disseminating (art. 4 para. 1) or using such symbols in public (art. 4 para. 2);
- imprisonment from 6 months to 5 years and loss of rights for promoting the cult of persons guilty of a crime against peace and humanity or promoting fascist, racist or xenophobic ideology through propaganda, in public (Art. 5);
- imprisonment from 6 months to 5 years and loss of rights for publicly challenging or denying the Holocaust or its effects (Art. 6).

For these acts, legal entities may be fined from 25,000,000 lei to 250,000,000 lei, and "the determination of the misdemeanour and the application of the sanction shall be made by the competent authorities of the Ministry of Culture and Religious Affairs, as well as by the authorized personnel of the Ministry of Interior" (Article 8).



Law No 107/2006 approving Government Emergency Ordinance No 31/2002 banning of fascist, racist or xenophobic organisations and symbols and the promotion of the cult of persons guilty of committing crimes against peace and humanity (published in the OGR No 377 of 3 May 2006) reduced the applicable sanctions:

- for establishing a fascist, racist or xenophobic organisation: imprisonment from 3 to 15 years and loss of certain rights (art. 3, para. 1);
- for manufacturing, selling, distributing, as well as being in possession with intent to distribute fascist, racist or xenophobic symbols is punished with imprisonment between 3 months and 3 years and loss of certain rights (art. 4. alin. 1);
- for promoting the cult of persons guilty of a crime against peace and humanity or promoting fascist, racist or xenophobic ideology through propaganda, committed by any means, in public: imprisonment from 3 months to 3 years and loss of certain rights (art. 5);

- for public denial of the Holocaust or its effects: imprisonment from 6 months to 5 years and loss of certain rights (Article 6);
- for legal entities: a fine of between 2,500 lei and 15,000 lei (art. 8 para. 1).



Law No 278/2006 amending and supplementing the Criminal Code and other laws (published in OGR No 601 of 12 July 2006) again introduced changes to the penalties:

- for distributing or selling, by any means, or manufacturing fascist, racist or xenophobic symbols, as well as possessing, with the intent to distribute or sell such symbols: imprisonment from 6 months to 5 years and loss of certain rights (art. 4 para.1);
- denying, contesting, condoning or justifying, by any means, in public, the Holocaust, genocide or crimes against humanity or their effects: imprisonment from 6 months to 5 years and loss of rights or a fine (art. 6).

In addition, the provisions on criminal penalties for legal entities have been repealed.



A further amendment was introduced by Law No 187/2012 implementing Law No 286/2009 of the Criminal Code (published in the OGR No 757 of 12 November 2012):

- "It is a criminal offence and shall be punishable by imprisonment for a term of 3 to 10 years and loss of certain rights to establish or form an organisation of a fascist, racist or xenophobic nature, or to join or support in any form such a group" (art. 3 para. 1);

persons who denounce the organisation to the authorities before it has been reported and before any of the offences within the scope of the group have been committed shall not be punished (art. 3 para. 3);

for the person who has committed these acts and who, in the course of criminal proceedings, facilitates the discovery of the truth and the criminal prosecution of one or more members of an organized criminal group, the special punishment limits are reduced by half (art. 3 para. 4);

- "Manufacturing, distributing or possessing with the intent to distribute fascist, racist or xenophobic symbols is a criminal offence and shall be punishable by imprisonment for a term of 6 months to 3 years or a fine" (art. 4 para. 1);
- "Distributing or making available to the public in any way, electronically, racist and xenophobic material constitutes a criminal offence and is punishable by imprisonment for a term of one to five years" (art. 4 para. 2¹);

- "Promoting the cult of persons guilty of committing a crime against peace and humanity or promoting fascist, racist or xenophobic ideology through propaganda, committed by any means, in public, shall be punishable by imprisonment for a term of 6 months to 3 years or a fine" (art. 5 para. 1);

- "Denying, contesting, condoning, justifying or blatantly minimizing, by any means, in public, the Holocaust, genocide, crimes against humanity and war crimes, as defined by international law, in the Statute of the International Criminal Court and in the Charter of the International Military Tribunal established by the London Agreement of 8 August 1945 and recognized as such by a final ruling of the International Criminal Court, of the International Military Tribunal established by the London Agreement of 8 August 1945, of the International Criminal Tribunal for the former Yugoslavia, of the International Criminal Tribunal for Rwanda or of any other international criminal tribunal established by relevant international instruments and whose jurisdiction is recognized by the Romanian State, or their effects, shall be punishable by imprisonment for a term of six months to three years or by a fine" (art. 6 para. 1), whereas if these offences are committed electronically, the offence is punishable by imprisonment from 6 months to 5 years (art. 6 para. 2);

- "Threatening through electronic means a person or a group of persons to commit an offence for which the maximum penalty stipulated by law is imprisonment for at least 5 years, on grounds of race, color, ancestry or national or ethnic origin, or on grounds of religion, if this is used as a pretext for any of the above-mentioned reasons, constitutes an offence and shall be punishable by imprisonment for a term of one to three years" (art. 61 para. 1).



Law no. 217/2015 amending and supplementing Government Emergency Ordinance no. 31/2002 banning fascist, racist or xenophobic organisations and symbols and the promotion of the cult of persons guilty of crimes against peace and humanity (published in OGR no. 558 of 27 July 2015) changed the title of the Emergency Ordinance to Emergency Ordinance on banning fascist, legionary, racist or xenophobic organisations and symbols and promoting the cult of persons guilty of committing crimes of genocide, crimes against humanity and war crimes.

The word "legionnaire" is inserted between "fascist" and "racist" in some definitions and the applicable penalties are again amended:

- imprisonment from 3 months to 3 years and loss of certain rights "for manufacturing, selling, distributing and possessing with intent to distribute fascist, legionary, racist or xenophobic symbols" (art. 4 para.1) and "using fascist, legionary, racist or xenophobic symbols in public" (art. 4 para. 2);

- imprisonment from 3 months to 3 years and loss of certain rights for publicly promoting the cult of persons guilty of genocide, crimes against humanity and war crimes, as well as fascist, legionary, racist or xenophobic ideas, concepts or doctrines (art. 5);

- imprisonment from 6 months to 3 years or a fine for "denying, contesting, condoning, justifying or blatantly minimising, by any means, in public, the Holocaust or its effects" (art. 6 para. 1);

- imprisonment for a term of 6 months to 3 years or a fine for "denying, contesting, condoning, justifying or blatantly minimising by any means, in public, genocide, crimes against humanity and war crimes as defined by international law, the Statute of the International Criminal Court and the Charter of the International Military Tribunal established by the London Agreement of 8 August 1945, and recognized as such by a final ruling of the International Criminal Court, the International Military Tribunal established by the London Agreement of 8 August 1945, of the International Criminal Tribunal for the former Yugoslavia, of the International Criminal Tribunal for Rwanda or of any other international criminal tribunal established by relevant international instruments and whose jurisdiction is recognized by the Romanian State, or the effects thereof" (art. 6 alin. 2);

- imprisonment from 6 months to 5 years for committing the acts described in art. 6 para. 1 and 2 by electronic means.



The legislature has also repeatedly amended the definition of certain concepts, such as "person guilty of committing crimes against peace and humanity" (Article 2(c) of GEO 31/2002):

- "a person guilty of crimes against peace and humanity means any person convicted through a final judgement by a Romanian or foreign court for one or more crimes against peace and humanity, as well as any person convicted by an international criminal court for war crimes or crimes against humanity" (GEO 31/2002);

- "a person guilty of committing crimes against peace and humanity means any person convicted through a final resolution by a Romanian or foreign court, through a legally recognised ruling, for one or more crimes against peace and humanity, as well as any person convicted by an international criminal court for war crimes or crimes against humanity" (Law No 107/2006);

- "a person guilty of committing crimes against peace and humanity means any person convicted through a final judgement by a Romanian or foreign court or by any judgement legally recognized in Romania for one or more crimes against peace and humanity, as well as a person in the leadership of an organisation whose criminal character has been determined by a judgement of an international criminal court" (Law No 187/2012);

- "a person guilty of committing crimes of genocide, crimes against humanity and war crimes means any person convicted through a final judgment by a Romanian or foreign court or by any judgment legally recognized in Romania for one or more crimes of genocide, crimes against humanity and war crimes, as well as a person at the head of an organisation whose criminal character has been determined by a judgment of an international criminal court" (Law No 217/2015).



c) Legislation on preventing and combating anti-Semitism

Law No 157/2018 on measures to prevent and combat anti-Semitism (published in the OGR No 561 of 4 July 2018) sanctions:

- promoting, in public, in any way, anti-Semitic ideas, concepts or doctrines, with imprisonment from 3 months to 3 years and loss of certain rights (art. 3);
- distributing or making available to the public, by any means, anti-Semitic material, with imprisonment from 1 to 5 years (art. 4);
- manufacturing, selling, distributing and possessing with the intent to distribute anti-Semitic symbols (art. 5 para.1) and using anti-Semitic symbols in public (art. 5 para. 2), with imprisonment from 3 months to 3 years and loss of certain rights;
- initiating or establishing an organisation of an anti-Semitic nature, joining or supporting, in any form, such an organisation, with imprisonment from 3 to 10 years and loss of certain rights (art. 6 para. 1), except for persons who denounce the existence of the organisation to the authorities before it has been reported and before any of the offences within the scope of the group have been committed (art. 6 para. 3), and if the person who commits the offence facilitates, in the course of criminal proceedings, the discovery of the truth and the prosecution of one or more members of an organized criminal group, the special limits of the penalty are reduced by half (art. 6 para. 4).

d) Legislation on preventing and combating antigypsyism

Law No 2/2021 on measures to prevent and combat antigypsyism (published in OGR No 8 of 5 January 2021) stipulates criminal sanctions for the following:

- promotion, in public, in any way, of antigypsyist ideas, concepts or doctrines with imprisonment from 3 months to 3 years and prohibition of certain rights (art. 3);
- distributing or making available to the public, by any means whatsoever, antigypsyist news and information or materials, with imprisonment from one to five years (art. 4);
- manufacturing, selling, disseminating and possessing with the intent to disseminate antigypsyism symbols (art. 5 para. 1) and using antigypsyism symbols in public (art. 5 para. 2) with imprisonment from 3 months to 3 years and loss of certain rights;
- initiating or setting up an antigypsyism organisation, joining or supporting, in any form, such a group, with imprisonment from 3 to 10 years and loss of certain rights (art. 6 para. 1), except for persons who denounce the existence of the organisation to the authorities before it has been reported and before any of the offences falling within the scope of the group have been committed (art. 6 para.3), and if the person who commits the offence facilitates, in the course of criminal proceedings, the discovery of the truth and the prosecution of one or more members of an organized criminal group, the special limits of the penalty are reduced by half (art. 6 para. 4).

e) Protection of the victim

Government Emergency Ordinance No. 18/2016 amending and supplementing Law No.286/2009 of the Criminal Code, Law No. 135/2010 of the Criminal Procedure Code and supplementing article 31 para. (1) of Law no. 304/2004 regarding the judicial body (published in OGR no. 389 of 23 May 2016) provides protection for vulnerable victims, being presumed to be vulnerable those "victims of hate crimes and victims harmed by a crime as a result of prejudice or discrimination that may be related in particular to their personal characteristics, as well as victims with disabilities" (art. 113 para. 2 of the Code of Criminal Procedure).



I.2. Sanctioning through administrative fines discrimination that potentially constitutes hate speech

During the reviewed period, Law No 190/2022 amended the provisions of the Audiovisual Law No 504/2002.

a) Legislation on advertising

The first law to stipulate the sanctioning of discrimination was Law no. 148/2000 on advertising (published in the OGR no. 359 of 2 August 2000) which, in Article 6(d), "prohibits advertising that includes discrimination based on race, sex, language, place of origin, social background, ethnic identity or nationality", without defining the notion of discrimination. The penalty for violation of this provision, at the time of issue of the law, was between 15,000,000 lei and 40,000,000 lei (art. 23, para. 1, (b), to be enforced by authorized representatives of the local public administration (art. 24, para. 1, (b)).

Law No 158/2008 on misleading and comparative advertising (published in the OGR No 559 of 24 July 2008) amended the punishable offences, excluding discriminatory advertising, but maintained the applicability of the provisions on the detection and sanctioning of offences by the authorized representatives of the local public administration. This error has not been corrected for 12 years.

b) Legislation on preventing and punishing all forms of discrimination

Government Ordinance no. 137/2000 on preventing and sanctioning all forms of discrimination (published in the OGR no. 431 of 2 September 2000) was the first legal norm in Romania to define discrimination (even different forms of discrimination, however without stating the terms), with sanctions set "between 500,000 lei and 10,000,000 lei, if the discrimination targets a private individual, and a fine between 1,000,000 lei and 20,000,000 lei, if the discrimination targets a group of persons or a community" (art. 20 para.1).

The NCCD, a body established not until 2002, has been entrusted with identifying and sanctioning these offences. In its original form, one article was relevant from the point of view of hate speech, and it defined the right to personal dignity: "Art. 19 - It constitutes an administrative offence under this Ordinance, unless the act falls under the criminal law, any conduct manifested in public, having a nationalist and chauvinist propaganda nature, instigating racial or national hatred, or any conduct which has the purpose of or targets the dignity of others or creates an intimidating, hostile, degrading, humiliating or offensive atmosphere, directed at a person, a group of persons or a community based on their affiliation with a race, nationality, ethnic group, religion, social group or socially disadvantaged group, or on that person's beliefs, sex or sexual orientation."

Law No 48/2002 on the approval of GO No 137/2000 regarding the prevention and sanctioning of all forms of discrimination (published in OGR No 69 of 31 January 2002) redefined Art. 19 (presently, after renumbering, Art. 15): It constitutes an administrative offence under this Ordinance, unless the act falls under the criminal law, any conduct manifested in public, having a nationalist and chauvinist propaganda nature, instigating racial or national hatred, or any conduct which has the purpose of or targets the dignity of others or creates an intimidating, hostile, degrading, humiliating or offensive atmosphere, directed at a person, a group of persons or a community based on their affiliation with a race, nationality, ethnic group, religion, social group or socially disadvantaged group, or on that person's beliefs, sex or sexual orientation."

A fine between 1,000,000 lei and 10,000,000 lei has been determined as a penalty if the discrimination is directed against a private individual, and a fine between 2,000,000 lei and 20,000,000 lei applies if the discrimination is directed against a group of persons (art. 20 para. 1).

Ordinance No 77/2003 amending and supplementing Government Ordinance No 137/2000 preventing and sanctioning all forms of discrimination (published in the OGR No 619 of 30 August 2003) amended the amount set for fines, with discrimination being sanctioned "with a fine of between 2,000,000 lei and 20,000,000 lei if the discrimination concerns a private individual, and with a fine of between 4,000,000 lei and 40,000,000 lei if the discrimination concerns a group of persons or a community" (art. 20 para. 6).

A new form of discrimination was defined by Law No 27/2004 for the approval of GO No 77/2003 amending and supplementing GO No 137/2000 preventing and sanctioning all forms of discrimination (published in OGR 216 of 11 March 2004), this being the notion of harassment, however overlapping with the notion of the right to dignity: "It constitutes harassment and is punishable by law any conduct on grounds of race, nationality, ethnicity, language, religion, social status, beliefs, gender, sexual orientation, belonging to a disadvantaged group, age, disability, refugee or asylum seeker status or any other criterion that leads to an intimidating, hostile, degrading or offensive environment" (art. 2 para. 31, currently, after renumbering, art. 2 para. 5). The sanctions have again been amended ("a fine of 2,000,000 lei to 20,000,000 lei if the discrimination is directed against a private individual, or a fine of 4,000,000 lei to 40,000,000 lei if the discrimination is directed against a group of persons or a community", art. 20 para. 6).

Law No 324/2006 amending and supplementing GO No 137/2000 on preventing and sanctioning all forms of discrimination (published in OGR 626 of 20 July 2006) amended the fines ("fine from 400 lei to 4,000 lei, if the discrimination targets a private individual, respectively with a fine from 600 lei to 8,000 lei, if the discrimination targets a group of persons or a community", art. 20 para. 1).

GEO No 19/2013 amending and supplementing GO No 137/2000 on preventing and sanctioning all forms of discrimination (published in OGR No 183 of 2 April 2013) amended the fines for acts of discrimination as follows "from 1,000 lei to 30,000 lei, if the discrimination targets a private individual, or a fine from 2,000 lei to 100,000 lei, if the discrimination targets a group of persons or a community" (art. 26 para.1 after renumbering).

Law No 167/2020 amending and supplementing GO No 137/2000 on preventing and sanctioning all forms of discrimination and supplementing Article 6 of Law No 202/2002 on equal opportunities and treatment between women and men (published in OGR No. 713 of 7 August 2020) introduces the notion of moral harassment in the workplace (art. 2 para. 5^{1-5⁷}), without bringing practically anything new to the general definition of harassment, except for the sanction, which is from 10,000 lei to 15,000 lei, from 30,000 lei to 50,000 lei, respectively from 50,000 lei to 200,000 lei for various acts related to moral harassment (art. 26 para. 1¹ -1²).



c) Legislation on equal opportunities for women and men

Law No 202/2002 on Equal Opportunities for Women and Men (published in the OGR No 301 of 8 May 2002), art. 4 (c), defines sexual harassment as "any form of conduct involving sex, which the perpetrator knows affects the dignity of persons, if such conduct is rejected and it constitutes the motivation for a decision affecting those persons", while article 19 prohibits "any publicity which violates, on the basis of sex, the human dignity, damaging the image and honor of a person in their public and/or private life".

The law does not stipulate that sexual harassment is punishable, but a violation of Article 19 constitutes a misdemeanour, "if the acts are not committed under such conditions that, according to criminal law, they constitute a criminal offence, they shall be punishable by an administrative fine from 1,500,000 lei to 15,000,000 lei" (art. 40 para.1).

This violation is determined by the authorized personnel of the territorial inspectorates for culture and religious affairs, ANPC or/and local public administration authorities (art. 40 para. 2 (d)).

Ordinance No 84/2004 amending and supplementing Law No 202/2002 on equal opportunities for women and men (published in OGR No. 799 of 30 August 2004) redefined sexual harassment as "any form of unwanted behaviour - verbal, non-verbal or physical - of a sexual nature, which occurs with the purpose or has the effect of undermining the dignity of a person, especially when it creates a degrading, intimidating, hostile, humiliating or offensive environment", also defining harassment as "any unwanted conduct, related to the fact that a person is of one sex or another, which has the purpose or effect of violating a person's dignity and of creating a degrading, intimidating, hostile, humiliating or offensive environment". (art. 4 (b¹)).

Law no. 501/2004 approving Government Ordinance no. 84/2004 amending and supplementing Law no. 202/2002 on equal opportunities between women and men (published in the OGR no. 1092 of 24 November 2004) redefined sexual harassment as "any unwanted conduct - verbal, non-verbal or physical - of a sexual nature, which has the purpose or effect of violating the dignity of the person and/or creating a degrading, intimidating, hostile, humiliating or offensive environment" (art. 4 (c)).

Law no. 340/2006 amending and supplementing Law no. 202/2002 on equal opportunities between women and men (published in OGR no. 642 of 25 July 2006) redefined the notions again, stating: "harassment means a situation in which unwanted conduct, related to the sex of the person, is manifested, having as its object or effect the damage of the dignity of the said person and the creation of an intimidating, hostile, degrading, humiliating or offensive environment" (art. 4 (c)); "sexual harassment is defined as the situation in which unwanted conduct of a sexual nature, expressed physically, verbally or non-verbally, which has the purpose or effect of violating the dignity of a person and, in particular, of creating an intimidating, hostile, degrading, humiliating or offensive environment" (Art. 4 (d)). In the field of advertising, art. 20 stipulates:

"(1) Publicity which violates, on the basis of sex, human dignity by damaging the image of a person in their public and/or private life and of groups of persons is prohibited.
(2) The use in advertising of situations in which persons, irrespective of sex, are portrayed in degrading, humiliating and pornographic attitudes shall be prohibited.
(3) Advertising companies shall be obliged to be aware of and respect the application of the principle of equal opportunities and treatment in order to eliminate gender stereotypes in advertising productions."

According to the amendments, it is within the competencies of NCCD to detect and sanction discrimination (art. 50 para.2 (b)), with fines ranging from 1,500 lei to 15,000 lei (art. 50 para.1).

GEO No. 83/2012 amending and supplementing Law No. 202/2002 on equal opportunities and equal treatment between women and men (published in OGR No. 839 of 13 December 2012) amended the amount of the applicable fines (the range being from 3,000 lei to 100,000 lei, art. 46 para. 1).

d) The Audiovisual Law

Audiovisual Law No 504/2002 (published in OGR No 534 of 22 July 2002) regulates advertising, art. 29 para. 1 states: "Advertising, including self-promotional advertising, and teleshopping must comply with the following conditions: [...] c) not include any form of discrimination on grounds of race, religion, nationality, sex or sexual orientation; [...]". Article 40 prohibits "the broadcasting of programmes containing any form of incitement to hatred on grounds of race, religion, nationality, sex or sexual orientation". Failure to comply with these provisions constitutes an offence, which is assessed and sanctioned by NAC with a fine between 50,000,000 lei and 500,000,000 lei (Art. 90).

GEO No 181/2008 amending and supplementing the Audiovisual Law No 504/2002 reworded Art. 29 para. 1: "Audiovisual commercial communications broadcast by audiovisual media service providers must comply with the following conditions: [...] d) must refrain from including any form of discrimination based on race, ethnicity, nationality, religion, belief, disability, age, gender or sexual orientation; [...]". A fine of between 5,000 lei and 100,000 lei has been set for these offences (art. 91 para. 2).

Law no. 190/2022 for the amending and supplementing of the Audiovisual Law no. 504/2002, also for the amending and supplementing of the Government Ordinance no. 39/2005 on cinematography, as well as for the amending of Law no. 41/1994 on organizing and functioning of the Romanian Broadcasting Company and the Romanian Television Company amended the provisions of art. 40:

"Audiovisual media services broadcast by providers under the Romanian jurisdiction shall not contain:

a) incitement to violence or hatred against a group of persons or a member of a group based on considerations such as sex, race, skin color, ethnic or social background, genetic features, language, religion or beliefs, political or other opinions, belonging to a national minority, wealth, birth, disability, age, sexual orientation or chronic contagious or non-contagious disease [...]" (Art. 40 para. 1).

Article 91² was introduced, which, in paragraph 1 stipulates: "The Council shall impose a fine on users of a video-sharing platform service that generates video material which: a) explicitly incites violence or hatred against a group of persons or a member of a group on grounds such as sex, race, skin color, ethnic or social background, genetic features, language, religion or beliefs, political or other opinions, belonging to a national minority, wealth, birth, disability, age, sexual orientation or chronic contagious or non-contagious disease [...]", with a fine from 2,000 lei to 30,000 lei (art. 91² para. 2).



e) Labour Code

Law No 53/2003 (Labour Code, published in the OGR No 72 of 5 February 2003), in its original version, did not define harassment.

Law No 151/2020 amending and supplementing Law No 53/2003 - Labour Code (published in OGR No 658 of 24 July 2020) introduces the following definition: "Harassment consists of any type of behavior based on one of the criteria set out in para. (2) [race, citizenship, ethnicity, skin color, language, religion, social background, genetic features, gender, sexual orientation, age, disability, chronic non-contagious disease, HIV infection, political choice, family situation or responsibilities, trade union membership or activity, belonging to a disadvantaged group] which has the purpose or effect of violating the dignity of a person and leads to creating an intimidating, hostile, degrading, humiliating or offensive environment" (art. 5 para. 5). The territorial labour inspectorates may determine and punish the offence with a fine of between 1,000 lei and 20,000 lei (Art. 260, para. 1, (q)).



I.3. Administrative and disciplinary sanctions in the context of hate speech

There are a number of laws that relate to the field of hate speech, which make it possible to apply administrative and disciplinary sanctions.

For example, the National Education Law no. 1/2011, through Law no. 221/2019 for amending and supplementing the National Education Law no. 1/2011 (published in OGR no. 929 of 19 November 2019), in art. 6¹ stipulates:

"Psychological violence - bullying is the action or series of actions of physical, verbal, relational and/or cyber nature, in a social context that is difficult to avoid, committed with intent, involving an imbalance of power, resulting in the violation of dignity or the creation of an intimidating, hostile, degrading, humiliating or offensive atmosphere, directed against a person or group of persons and targeting aspects of discrimination and social exclusion, which may be linked to belonging to a particular race, nationality, ethnic group, religion, or social or disadvantaged group, or to beliefs, gender or sexual orientation, personal features, conduct or series of actions, behaviour which takes place in educational establishments and in all places of education and training."

The law does not specify a particular sanction, but there is the possibility of disciplinary sanctions against students and teachers and administrative sanctions against educational institutions that do not take action against the phenomenon.

The methodological standards approved by Order No 4.343/2020 regarding the approval of the methodological standards for the application of the provisions of art. 7 para. 1¹, art. 56¹ and pct. 6¹ of the Annex to the National Education Law no. 1/2011 on psychological violence - bullying (published in the OGR no. 492 of 10 June 2020) provides for multidisciplinary intervention in bullying situations for prevention and combating the phenomenon, but does not refer at all to applicable sanctions.

I.4. Remedies through civil actions

a) In the case of offences

The conditions under which remedies may be obtained in the case of offences are stipulated in Law No 135/2010 on the Criminal Procedure Code (published in OGR No 486 of 15 July 2010).

Thus, reparation for material or moral damage caused by such an offence may be obtained through civil action brought in criminal proceedings (art. 19 para. 1).

"The civil action shall be settled in the course of the criminal proceedings, provided that it does not exceed the reasonable duration of the proceedings" (art. 19 para. 4).

If the civil action is disjoined, it shall be referred to the competent civil court (art. 26).

"Compensation for material and moral damage shall be made in accordance with the provisions of civil law" (art. 19, para. 5).

"Civil proceedings may be initiated before the commencement of the judicial inquiry" (art. 20, para. 1).

Subsequently, the victim or their successors may bring the action before the civil court (art. 20, para. 4).

"A civil action for civil liability against the accused and the party holding civil liability, brought before the criminal court or the civil court, shall be exempt from stamp duty" (art. 20, para. 8).

In case of acquittal of the accused or termination of the criminal proceedings, the court shall leave the civil action unresolved (Art. 25, para. 5).

"The victim or their successors, who have joined the criminal proceedings as a civil party, may bring an action before the civil court, if the criminal court has left the civil action unresolved by a final judgement" (art. 27 para. 2).

The action may also be filed if the criminal proceedings have been suspended (art. 27 para. 3).

"Proceedings before the civil court shall be suspended after the criminal proceedings have commenced and until the criminal case has been resolved in the first court, but for no longer than one year" (art. 27 para. 7).

"The final judgement of the criminal court shall have final decision-making authority before the civil court hearing the civil action with regard to the existence of the offence of the person who committed it. The civil court is not bound by the final judgement acquitting or terminating the criminal case regarding the existence of the damage or the guilt of the perpetrator of the unlawful act" (art. 28 para. 1).

The final judgement of the civil court in the civil action shall not be final before the criminal courts regarding the existence of the criminal act, the person who committed it and his guilt" (art. 28 para.2).

Law No 255/2013 on the implementation of Law No 135/2010 of the Criminal Procedure Code and amending and supplementing some normative acts containing criminal procedural provisions (published in the OGR No 515 of 14 August 2013) brought the following amendments:

"The civil action filed during criminal proceedings is aimed at holding liable in tort the persons responsible according to civil law for the damage caused by committing the act that is the subject of the criminal action." (art. 19 para. 1);

"The court may order to disjoin the civil action, when the resolution of the civil action results in exceeding the reasonable time limit for the resolution of the criminal action. The criminal court shall remain competent to rule on the civil action" (art. 26 para. 1);

"The victim or their successors, who are civil parties in the criminal proceedings, may bring an action before the civil court if the criminal court has left the civil action pending by final judgement. Evidence taken in the course of criminal proceedings may be used before the civil court." (art. 27 para.2);

If the victim party or their successors have not joined the criminal proceedings as civil parties, they may file an action in civil court for compensation for the damage caused by the offence, and "proceedings in civil court shall be suspended after the criminal proceedings have been initiated and until the criminal case has been resolved before the first court, but not for longer than one year". (art. 27 para. 7).

b) Specific procedure in case of hate speech defined as discrimination

Government Ordinance No 137/2000 on preventing and sanctioning all forms of discrimination (published in OGR No 431 of 2 September 2000) stated that

"persons who have been discriminated against have the right to claim compensation proportional to the damage suffered, as well as the restoration of the situation prior to the discrimination or the annulment of the situation created by the discrimination, in accordance with common law" (art. 21 para. 1). "A claim for compensation shall be exempt from stamp duty" (art. 21 para. 2).

"Non-governmental organisations whose purpose is to protect human rights shall have the capacity to initiate legal proceedings when discrimination occurs in their field of work and affects a community or a group of persons" (art. 22 para. 1), "or when discrimination affects a private individual, if the latter mandates the organisation to do so" (art. 22 para. 2).

Law No 27/2004 on the approval of Government Ordinance No 77/2003 amending and supplementing Government Ordinance No 137/2000 preventing and sanctioning all forms of discrimination (published in the OGR No 216 of 11 March 2004) stipulated that "proof of discrimination may be provided by any means of evidence, including audio and video recordings" (art. 21 para. 4).



It also redefined the active legal standing of non-governmental organisations, referring to those that "aim to protect human rights or have a legitimate interest in combating discrimination", "in cases where discrimination occurs in their field of work and affects a community or a group of persons" (art. 22 para. 1), respectively "in cases where discrimination affects a private individual, at the latter's request" (art. 22 para. 2).

Law No 324/2006 amending and supplementing Government Ordinance No 137/2000 on the preventing and sanctioning of all forms of discrimination (published in the OGR No 626 of 20 July 2006), in article 21 (now, after renumbering, article 27), rephrased the entire procedure before the court. "A person who considers themselves to have been discriminated against may bring an action before the court for compensation and for the restoration of the situation prior to the discrimination or for the annulment of the situation created by the discrimination, in accordance with common law. The claim is exempt from stamp duty and is not dependent on a referral to the National Council for Combating Discrimination." (para. 1).

"The time limit for filing the complaint is 3 years and runs from the date in which the act was committed or from the date in which the person affected could have become aware of it." (para. 2) "The case shall be heard with a mandatory citation of the National Council for Combating Discrimination." (para. 3) "The person affected shall have the obligation to prove the existence of facts from which it may be presumed that there has been direct or indirect discrimination, and the person against whom the complaint has been filed shall have the obligation of proving that the facts do not constitute discrimination. Any evidence, including audio and video recordings or statistical data, may be invoked before the court." (para. 4) "The judgement of the court shall be notified to the National Council for Combating Discrimination." (para. 6).

Law No 61/2013 on the amendment of Government Ordinance No 137/2000 preventing and sanctioning all forms of discrimination (published in the OGR No 158 of 25 March 2013) has reworded Article 27 para. 4: "The person affected shall present facts on the basis of which it may be presumed that there has been direct or indirect discrimination, and the person against whom the complaint has been filed shall have the obligation of proving that there has been no violation of the principle of equal treatment. Any evidence may be invoked before the court, while respecting the constitutional framework of fundamental rights, including audio and video recordings or statistical data."

II. Information on hate crimes and hate speech available in Romania

II.1. Administrative information on hate crime and hate speech

II.1.1. Hate crimes and hate speech recorded by the police^[6]

The Criminal Investigations Directorate is responsible for combating crimes against a person, property, public assets, authority, as well as those that affect social relations, excluding cases of organized crime. The Directorate operates the Office for the Investigation of Hate Crimes.

During the prosecution phase, the investigating judicial police have the task of gathering the evidence necessary for establishing the existence of crimes, identifying the perpetrators, and determining whether or not they should be prosecuted.

They are authorised to initiate criminal proceedings, manage the evidence needed to resolve all aspects of the criminal case, carry out certain procedural activities (searches, scene reconstitution, investigation at the scene of the crime), draw up substantiated proposals for the prosecutor to take preventive measures, carry out searches and initiate criminal proceedings.

By Government Decision no. 539 of 13.05.2021 on the approval of the National Strategy and Action Plan for preventing and combating anti-Semitism, xenophobia, radicalization and hate speech, for the period 2021 - 2023, the IGPR was appointed coordinator of a working group whose objective is to align a set of statistical indicators on hate crimes at the level of all authorities.

To implement this obligation, the General Inspectorate of the Romanian Police has coordinated a series of operational meetings with representatives of national authorities responsible for preventing and combating hate and bias crimes, during which they have established a list of crimes that are relevant to the analysis and monitoring of this type of crime.

Thus, the statistical indicators on hate crimes were established after consultation with the Ministry of Justice, the Public Ministry - Prosecutor's Office of the High Court of Cassation and Justice, the Superior Council of Magistracy and the National Institute of Statistics.

6. According to GIPR letter no. 2.667.702 of 11.11.2022 sent to the CLR.

IGPR collects statistical data both on crimes for which the aggravating circumstance cited in art. 77, letter h) of the Criminal Code has been considered in the legal framework of the crime, and on actual hate crimes, the specific nature of which implies the existence of a motive of hatred or prejudice in the subjective side of the crime, statistical data being available as of 01.01.2022.

The statistical data are broken down by each of the discrimination criteria set out in art. 77 letter h) of the Criminal Code, with separate statistical indicators for each ground for committing the criminal offence. The discrimination criteria are detailed by sub-indicators for ethnic crimes as follows:

- a) against ethnic Hungarians;
- b) anti-Roma and Sinti;
- c) anti-Semitism;
- d) against other ethnic categories.

The discrimination criteria are also detailed by sub-indicators in the case of crimes committed on religious grounds, as follows:

- a) against Muslims;
- b) against Christians;
- c) against other religious groups.

The statistical template is currently being tested and work is being carried out to check the accuracy of the statistical data and to validate it so that it reflects the correct and complete dimension of hate crime.

Indicators	2021	2022 (until 30.06.2022)
Torture motivated by discrimination (art. 282, para. 1, letter d of the Criminal Code)		
Offences reported	2	0
Offences referred to the public prosecutor's office on the basis of subject matter jurisdiction or by the status of the person	0	0
Persons under investigation in the referred cases	0	0
Abuse of office by restricting rights (art. 297, para. 2 of the Criminal Code)		
Offences reported	47	14
Offences with continuous criminal prosecution of a person	1	0
Suspects investigated	1	0
Offences referred to the public prosecutor's office on the basis of subject matter jurisdiction or by the status of the person	4	1
Persons under investigation in the referred cases	4	2

Incitement to hatred or discrimination (art. 369 of the Criminal Code)		
Offences reported	66	24
Offences with continuous criminal prosecution of a person	2	4
Suspects investigated	2	3
Offences referred to the public prosecutor's office on the basis of subject matter jurisdiction or by the status of the person	5	1
Persons under investigation in the referred cases	5	0
Desecration of places or objects of worship (art. 382 of the Criminal Code)		
Offences reported	5	4
Offences with continuous criminal prosecution of a person	1	1
Suspects investigated	1	1
Offences referred to the public prosecutor's office on the basis of subject matter jurisdiction or by the status of the person	0	0
Persons under investigation in the referred cases		
GEO 31/2002 on the prohibition of fascist, racist or xenophobic organisations and symbols and the promotion of the cult of persons guilty of crimes against peace and humanity		
Offences reported	20	6
Offences with continuous criminal prosecution of a person	4	0
Suspects investigated	4	0
Offences referred to the public prosecutor's office on the basis of subject matter jurisdiction or by the status of the person	2	1
Persons under investigation in the referred cases	0	2
Law No 2/2021 on measures to prevent and combat anti-gypsyism		
Offences reported	3	0
Offences with continuous criminal prosecution of a person	0	0
Suspects investigated	0	0
Offences referred to the public prosecutor's office on the basis of subject matter jurisdiction or by the status of the person	0	0
Persons under investigation in the referred cases		

Table 1. IGPR statistical overview in the field of hate crimes

II.1.2. Data on criminal cases related to hate crimes and hate speech at the level of the Public Ministry (Prosecutor's Office of the High Court of Cassation and Justice) [7]

Prosecutors have the role of supervising the criminal investigation work carried out by the investigative units of the judicial police. At the same time, the prosecutor may personally carry out any act of criminal investigation.

If it appears from the criminal investigation evidence that the crime exists, that it was committed by the accused and that he is criminally liable, the prosecutor issues an indictment ordering the prosecution to be brought to trial.

The public prosecutor participates in the trial of criminal cases as the party responsible for the criminal proceedings, representing the prosecution, with the duty to prove beyond reasonable doubt the charge, the act and the guilt referred to in the indictment.

The public prosecutor exercises the right to appeal against judicial rulings. Public prosecutors are organized in public prosecutor's offices, in territorial districts similar to courts. The prosecutors in each prosecutor's office are subordinate to the head of the prosecutor's office and the head of the prosecutor's office is subordinate to the head of the superior prosecutor's office in the same district. The Public Ministry (the Prosecutor's Office of the High Court of Cassation and Justice) coordinates the work of the subordinate prosecutors' offices.

At the Public Ministry level, there is statistical data on hate crimes, onto which the aggravating circumstance cited in art. 77 letter h) of the Criminal Code has been applied, or for which the element of hatred is a component of the substantive offence, namely the crimes stipulated in the GEO no. 31/2002. This data is collected at the level of the prosecution offices and is centralized at the level of the Prosecutor's Office attached to the High Court of Cassation and Justice.

Statistical data on hate crimes to which the aggravating circumstance cited in art. 77 letter h) of the Criminal Code has been applied, as well as crimes cited in GEO No 31/2002 are collected by Annex No 19 and Annex No 20 of Order No 298 of 20 December 2017 amending Order of the Prosecutor General No 213/2014 on the organisation and functioning of the information system of the Public Ministry.

For offences under Articles 382 and 383 of the Criminal Code, statistical data are collected together with the other offences under Chapter III - "Offences against religious freedom and respect for the deceased", thus separate data cannot be provided for the two offences.

Offences under Law No 2/2021 on measures to prevent and combat antigypsyism are not included in the consolidated register of criminal cases.

The Public Ministry does not have data on convictions ordered by the courts.

According to the letter of the Public Ministry No 1203/VIII-3/2022 of 18.10.2022 sent to the CLR.

	Pre-existing cases	Newly added cases in 2021	Concluded	by referral to trial	by discontinuation of criminal prosecution	by dismissal
PCA Bucharest	31	38	29	0	0	29
PCA Alba Iulia	5	9	6	0	0	6
PCA Bacău	4	5	2	0	0	2
PCA Braşov	7	8	4	0	1	3
PCA Cluj	2	1	0	0	0	0
PCA Constanţa	4	1	2	0	0	2
PCA Craiova	6	6	7	0	0	7
PCA Galaţi	0	0	0	0	0	0
PCA Iaşi	2	6	3	0	0	3
PCA Oradea	3	11	13	0	0	13
PCA Piteşti	5	1	4	0	0	4
PCA Ploieşti	0	7	3	0	0	3
PCA Suceava	5	4	4	0	0	4
PCA Târgu Mureş	12	2	8	1	0	7
PCA Timişoara	7	7	7	0	0	7
POHCCJ -CPFD	1	12	5	0	0	5
TOTAL	94	118	97	1	1	95

Table 2. Statistical overview for the year 2021 - Incitement to violence, hatred or discrimination (art. 369 of the Criminal Code) - number of cases and resolutions

In the only case brought to trial there were three defendants and one victim, ethnicity being stated as grounds for discrimination.

In the case of the discontinuation of prosecution there was no suspect or defendant, but for the only victim, nationality was stated as grounds for discrimination.

	No. of cases	No. of suspects, defendants	No. of victims [8]	Grounds for discrimination
PCA Bucharest	29	3	5	nationality, illness, incurable disease, race, sexual orientation, membership of a religious group, offensive words, incitement to class hatred, incitement to hatred against teachers, incitement to hatred against a minor
PCA Alba Iulia	6	5	5	occupation (2), incitement to hatred (3)

8. Specifically: 'Number of victims to which the discriminatory grounds refer'.

PCA Bacău	2	1	1	professional category
PCA Braşov	3	0	3	nationality (2), religion (1)
PCA Constanţa	2	0	0	ethnicity, illness
PCA Craiova	7	8	7	nationality (1), ethnicity (2), incitement to hatred (2), social grounds (1), race (1)
PCA Iaşi	3	0	3	sexual orientation and gender identity, defamation, ethnic slurs
PCA Oradea	13	13	13	ethnicity, sexual orientation, incitement to hatred, belonging to a group (police officers)
PCA Piteşti	4	0	3	incitement to hatred towards a category of persons: ethnic Roma, mayor
PCA Ploieşti	3	3	4	incitement to hatred on grounds of mental illness (2), hate messages were distributed (1), ethnic Roma (1)
PCA Suceava	4	0	4	incitement to hatred
PCA Târgu Mureş	7	0	0	race, nationality, ethnicity
PCA Timişoara	7	0	0	hate (1), health (2), gender (1), nationality (1)
POHCCJ -CPFD	5	0	0	political views, nationality
TOTAL	95	33	48	

Table 3. Statistical overview for the year 2021 - Incitement to violence, hatred or discrimination (art. 369 of the Criminal Code) - data on dismissed cases

	Pre-existing cases	Newly added cases in 2021	Concluded	by referral to trial	by discontinuation of criminal prosecution	by dismissal
PCA Bucharest	9	9	3	0	0	3
PCA Alba Iulia	3	4	4	0	0	4
PCA Bacău	0	0	0	0	0	0
PCA Braşov	0	0	0	0	0	0
PCA Cluj	0	0	0	0	0	0
PCA Constanţa	0	0	0	0	0	0
PCA Craiova	1	5	4	0	0	4
PCA Galaţi	0	1	0	0	0	0
PCA Iaşi	0	4	0	0	0	0
PCA Oradea	0	0	0	0	0	0
PCA Piteşti	5	1	4	0	0	4
PCA Ploieşti	3	0	2	0	0	0
PCA Suceava	0	1	0	0	0	0
PCA Târgu Mureş	1	0	0	0	0	0
PCA Timişoara	0	2	1	0	0	1
POHCCJ -CPFD	0	1	1	0	0	1
TOTAL	22	28	19	0	0	17

Table 4. Statistical overview for the year 2021 - Abuse of service based on a discriminatory motive (art. 297 para. 2 of the Criminal Code) - number of cases and resolutions

	No. of cases	No. of suspects, defendants	No. of victims	Grounds for discrimination
PCA Bucharest	3	0	0	illness, contagious disease, in Penitentiary
PCA Alba Iulia	4	3	3	occupation
PCA Craiova	4	6	4	ethnicity (1), violation of health rights (1), violation of professional rights (1), restriction of rights (1)
PCA Pitești	4	0	0	-
PCA Ploiești	0	1	2	city hall employees, HIV infection, wealth (1)
PCA Timișoara	1	0	1	ethnicity
POHCCJ -CPFD	1	0	0	political views
TOTAL	17	10	10	

Table 5. Statistical overview for the year 2021 - Abuse of service based on a discriminatory motive (art. 297 para. 2 of the Criminal Code) - data on dismissed cases

	Pre-existing cases	Newly added cases in 2021	Concluded	by referral to trial	by discontinuation of criminal prosecution	by dismissal
PCA Bucharest	0	(threat, art. 206 of the Criminal Code)	0	0	0	0
PCA Alba Iulia	3 (abusive conduct, art. 296 of the Criminal Code)	0	3	0	0	3
	1 (destruction, art. 253 of the Criminal Code)	0	1	0	0	1
PCA Bacău	0	0	0	0	0	0
PCA Brașov	0	0	0	0	0	0
PCA Cluj	0	1 (assault or other violence, art. 193 of the Criminal Code)	1	0	0	1
PCA Constanța	0	0	0	0	0	0
PCA Craiova	0	0	0	0	0	0
PCA Galați	0	0	0	0	0	0
PCA Iași	0	0	0	0	0	0

PCA Oradea	0	0	0	0	0	0
PCA Pitești	0	0	0	0	0	0
PCA Ploiești	1 (threat, art. 206 of the Criminal Code)	0	1	0	0	1
PCA Suceava	0	0	0	0	0	0
PCA Târgu Mureș	0	1 (assault or other violence, art. 193 of the Criminal Code)	1	1	0	0
PCA Timișoara	0	0	0	0	0	0
POHCCJ -CPFD	0	0	0	0	0	0
TOTAL	5	3	7	1	0	6

Table 6. Statistical overview for the year 2021 - Other offences with aggravated discriminatory motive (art. 77 letter h) of the Criminal Code) - number of cases and resolutions

In the only case concluded with a referral to trial, there were two defendants and one victim, the discriminatory motive being ethnicity.

	Number of cases	Number of suspects, defendants	Number of victims	Grounds for discrimination
PCA Alba Iulia	0	3	3	occupation
PCA Bacău	1	0	0	-
PCA Brașov	0	1	1	-
PCA Cluj	1	0	0	nationality and race
PCA Pitești	0	1	1	-
PCA Ploiești	1	0	0	Roma ethnicity
TOTAL	2	5	5	-

Table 7. Statistical overview for the year 2021 - Other offences with aggravated discriminatory motive (art. 77 letter h) of the Criminal Code) – data on dismissed cases

	Pre-existing cases	Newly added cases in 2022	Concluded	by referral to trial	by discontinuation of criminal prosecution	by dismissal
PCA Bucharest	35	13	8	0	0	8
PCA Alba Iulia	6	2	3	0	0	3
PCA Bacău	2	1	1	0	0	1
PCA Braşov	7	7	2	0	0	2
PCA Cluj	14	3	6	0	0	6
PCA Constanţa	3	2	3	0	0	3
PCA Craiova	4	6	0	0	0	0
PCA Galaţi	2	0	1	0	0	1
PCA Iaşi	5	1	2	0	0	2
PCA Oradea	1	3	1	0	0	1
PCA Piteşti	3	0	2	0	0	2
PCA Ploieşti	4	0	1	0	0	1
PCA Suceava	4	3	1	0	0	1
PCA Târgu Mureş	4	4	1	0	0	1
PCA Timişoara	5	5	6	0	0	6
POHCCJ -CPFD	8	3	5	0	0	5
TOTAL	107	53	43	0	0	43

Table 8. Statistical overview for the year 2022, 1st semester - Incitement to violence, hatred or discrimination (art. 369 of the Criminal Code) - number of cases and resolutions

	No. of cases	No. of suspects, defendants	No. of victims	Grounds to discrimination
PCA Bucharest	8	0	0	wealth, education, race, incitement to hatred and discrimination
PCA Alba Iulia	3	8	8	ethnicity (2), profession (2), nationality (2)
PCA Bacău	1	0	3	social class, social status
PCA Braşov	2	0	2	nationality (1), Roma ethnicity (1)
PCA Cluj	6	0	5	ethnicity, nationality, political affiliation
PCA Constanţa	3	0	0	ethnicity
PCA Craiova	0	0	0	-
PCA Galaţi	1	0	2	ethnicity

PCA Iași	2	0	0	incitement to hatred, Roma ethnicity
PCA Oradea	1	1	0	-
PCA Pitești	2	1	2	social background, incitement to hatred against a trader
PCA Ploiești	1	0	1	incitement to hatred and discrimination on Facebook
PCA Suceava	1	0	1	incitement to hatred
PCA Târgu Mureș	1	0	1	sexual orientation
PCA Timișoara	6	0	0	hate (1), gender (1), age (1), other criteria (1)
POHCCJ -CPFD	5	0	0	political views, nationality
TOTAL	43	10	25	

Table 9. Statistical overview for the year 2022, 1st semester - Incitement to violence, hatred or discrimination (art. 369 of the Criminal Code) – data on dismissed cases

	Pre-existing cases	Newly added cases in 2022	Concluded	by referral to trial	by discontinuation of criminal prosecution	by dismissal
PCA Bucharest	11	4	0	0	0	0
PCA Alba Iulia	2	3	1	0	0	1
PCA Bacău	0	1	0	0	0	0
PCA Brașov	0	0	0	0	0	0
PCA Cluj	0	0	0	0	0	0
PCA Constanța	0	0	0	0	0	0
PCA Craiova	2	2	3	0	0	3
PCA Galați	0	0	0	0	0	0
PCA Iași	4	1	1	0	0	1
PCA Oradea	0	0	0	0	0	0
PCA Pitești	0	0	0	0	0	0
PCA Ploiești	1	1	1	0	0	1
PCA Suceava	1	0	0	0	0	0
PCA Târgu Mureș	0	0	0	0	0	0
PCA Timișoara	0	5	2	0	0	2
POHCCJ -CPFD	1	0	1	0	0	1
TOTAL	22	17	9	0	0	9

Table 10. Statistical overview for the year 2022, 1st semester - Abuse of service based on a discriminatory motive (art. 297 para. 2 of the Criminal Code) - number of cases and resolutions

	No. of cases	No. of suspects, defendants	No. of victims	Grounds for discrimination
PCA Alba Iulia	1	5	5	ethnicity (2), profession (2), disability (1)
PCA Craiova	3	0	3	violation of procedural rights, violation of the right to healthcare, failure to comply with mandatory minimum requirements for the ration of food for persons deprived of liberty
PCA Iași	1	0	0	sexual orientation
PCA Ploiești	1	0	1	insults, abusive words and remarks, threats and mental health related allegations
PCA Timișoara	2	0	0	sexual orientation (1), other criteria (2)
POHCCJ -CPFD	1	0	0	political views
TOTAL	9	5	9	

Table 11. Statistical overview for the year 2022, 1st semester - Abuse of service based on a discriminatory motive (art. 297 para. 2 of the Criminal Code) - data on dismissed cases

	Pre-existing cases	Newly added cases in 2022	Concluded	by referral to trial	by discontinuation of criminal prosecution	by dismissal
PCA Bucharest	0	2 (promotion of anti-Semitic doctrine, Law No 157/2008, art. 3)	0	0	0	0
PCA Alba Iulia	0	0	0	0	0	0
PCA Bacău	0	0	0	0	0	0
PCA Brașov	0	0	0	0	0	0
PCA Cluj	0	1 (abusive conduct, art. 296 para. 2 of the Criminal Code)	1	0	0	1
PCA Constanța		0	0	0	0	0
PCA Craiova		0	0	0	0	0
PCA Galați		0	0	0	0	0
PCA Iași		0	0	0	0	0
PCA Oradea		0	0	0	0	0
PCA Pitești		0	0	0	0	0
PCA Ploiești		0	0	0	0	0

PCA Suceava		0	0	0	0	0
PCA Târgu Mureș		0	0	0	0	0
PCA Timișoara		0	0	0	0	0
POHCCJ-CPFD		0	0	0	0	0
TOTAL		3	1	0	0	1

Table 12. Statistical overview for the year 2022, 1st semester - Other offences with aggravated discriminatory motive (art. 77 lit. h) Criminal Code) - number of cases and resolutions

In the only case concluded with a dismissal, there was no suspect or defendant, only a victim, and the discriminatory motive was ethnicity.

In 2021, there were three cases in progress concerning the establishment of an extremist organisation (GEO no 31/2002, art. 3): at PCA Bacău, concluded by dismissal, with no suspect/defendant and no victim, having cited ethnicity as the reason; at PCA Oradea, also concluded by dismissal, with one suspect/defendant, having cited "fascist symbols" as the motive; at POHCCJ-CPFD, case not concluded.

	Pre-existing cases	Newly added cases in 2021	Concluded	by referral to trial	by discontinuation of criminal prosecution	by dismissal
PCA Bucharest	8	2	3	2	0	1
PCA Alba Iulia	0	3	0	0	0	0
PCA Bacău	0	1	0	0	0	0
PCA Brașov	0	1	0	0	0	0
PCA Cluj	3	0	0	0	0	0
PCA Constanța	0	1	0	0	0	0
PCA Craiova	0	0	0	0	0	0
PCA Galați	0	1	0	0	0	0
PCA Iași	0	1	0	0	0	0
PCA Oradea	0	0	0	0	0	0
PCA Pitești	0	1	0	0	0	0
PCA Ploiești	1	0	1	0	0	1
PCA Suceava	2	0	1	0	0	1
PCA Târgu Mureș	0	1	0	0	0	0
PCA Timișoara	1	1	1	0	0	1
POHCCJ-CPFD	0	1	0	0	0	0
TOTAL	15	14	6	2	0	4

Table 13. Statistical overview for the year 2021 - Extremist symbols (GEO no. 31/2002 art. 4) - number of cases and resolutions

In the two cases brought to trial, there were two defendants, citing "race; promotion of fascist/legionary messages and signs on social media" as the motive.

	No. of cases	No. of suspects, defendantts	Motive
PCA Bucharest	1	0	promotion on social media of fascist/legionary messages and signs
PCA Ploiești	1	1	marked their own car with fascist symbols
PCA Suceava	1	0	antisemitism
PCA Timișoara	1	0	Roma ethnicity
TOTAL	4	1	

Table 14. Statistical overview for the year 2021 - Extremist symbols (GEO no. 31/2002 art. 4) - data on dismissed cases

	Pre-existing cases	Newly added cases in 2021	Concluded	by referral to trial	by discontinuation of criminal prosecution	by dismissal
PCA Bucharest	4	1	3	0	0	3
PCA Alba Iulia	0	0	0	0	0	0
PCA Bacău	0	0	0	0	0	0
PCA Brașov	2	1	0	0	0	0
PCA Cluj	3	0	1	0	0	1
PCA Constanța	0	1	0	0	0	0
PCA Craiova	0	0	0	0	0	0
PCA Galați	0	0	0	0	0	0
PCA Iași	0	1	1	0	0	1
PCA Oradea	0	0	0	0	0	0
PCA Pitești	0	0	0	0	0	0
PCA Ploiești	2	2	3	0	1	2
PCA Suceava	0	0	0	0	0	0
PCA Târgu Mureș	1	0	1	0	0	1
PCA Timișoara	0	0	0	0	0	0
POHCCJ-CPFD	0	5	1	0	0	1

Table 15. Statistical overview for the year 2021 - Promotion of persons guilty of genocide (GEO no. 31/2002 art. 5) - number of cases and resolutions

For the case which concluded with the discontinuation of the prosecution there was one suspect/defendant, the motive cited being: "used Nazi symbols on their Facebook page - a swastika and a facial feature - a moustache resembling Adolf Hitler's".

	No. of cases	No. of suspects, defendants	Motive
PCA Bucharest	3	0	promotion of legionary symbols, public promotion of fascist, legionary, racist or xenophobic ideas, concepts; promotion of the cult of persons guilty of genocide
PCA Cluj	1	0	antisemitism
PCA Iași	1	0	racist message
PCA Ploiești	2	1	inscribed messages with xenophobic content; managed tribute websites for Corneliu Zelea Codreanu
PCA Târgu Mureș	1	1	nationality
POHCCJ -CPFD	1	0	-
TOTAL	9	2	

Table 16. Statistical overview for the year 2021 - Promotion of persons guilty of genocide (GEO no. 31/2002 art. 5) - data on dismissed cases

	Pre-existing cases	Newly added cases in 2021	Concluded	by referral to trial	by discontinuation of criminal prosecution	by dismissal
PCA Bucharest	4	2	3	0	0	3
PCA Alba Iulia	0	0	0	0	0	0
PCA Bacău	0	0	0	0	0	0
PCA Brașov	0	0	0	0	0	0
PCA Cluj	0	0	0	0	0	0
PCA Constanța	0	0	0	0	0	0
PCA Craiova	0	0	0	0	0	0
PCA Galați	0	0	0	0	0	0
PCA Iași	1	0	1	0	0	1
PCA Oradea	0	0	0	0	0	0
PCA Pitești	0	0	0	0	0	0
PCA Ploiești	0	0	0	0	0	0

PCA Suceava	0	0	0	0	0	0
PCA Târgu Mureș	0	0	0	0	0	0
PCA Timișoara	0	0	0	0	0	0
POHCCJ -CPFD	0	0	0	0	0	0
TOTAL	5	2	4	0	0	4

Table 17. Statistical overview for the year 2021 - Holocaust denial (GEO no. 31/2002 art. 6) - number of cases and resolutions

	No. of cases	No. of suspects, defendantts	Motive
PCA Bucharest	3	0	race (2), publicly denying, contesting, challenging, justifying or minimising the Holocaust or its effects
TOTAL	4	0	

Table 18. Statistical overview for the year 2021 - Holocaust denial (GEO no. 31/2002 art. 6) - data on dismissed cases

There are two cases, both registered at the PCA Bucharest in 2021, concerning cyber threats based on a discriminatory motive (GEO no. 31/2002, art. 61), one of which was concluded, with the indictment of a defendant, the motive cited being: "anti-Semitic message containing death threats, threats of rape, arson, and other violent acts".

	Pre-existing cases	Newly added cases in 2022	Concluded	by referral to trial	by discontinuation of criminal prosecution	by dismissal
PCA Bucharest	7	5	1	0	1	0
PCA Alba Iulia	3	1	1	0	0	1
PCA Bacău	1	0	0	0	0	0
PCA Brașov	0	0	0	0	0	0
PCA Cluj	3	0	0	0	0	0
PCA Constanța	1	0	1	0	0	1
PCA Craiova	0	0	0	0	0	0
PCA Galați	0	1	0	0	0	0
PCA Iași	1	0	0	0	0	0

PCA Oradea	0	1	0	0	0	0
PCA Pitești	1	0	1	0	1	0
PCA Ploiești	0	0	0	0	0	0
PCA Suceava	1	0	0	0	0	0
PCA Târgu Mureș	1	1	0	0	0	0
PCA Timișoara	1	2	1	0	0	1
POHCCJ -CPFD	2	1	0	0	0	0
TOTAL	22	12	5	0	2	3

Table 19. Statistical overview for the year 2022, 1st semester - Extremist symbols (GEO no. 31/2002, art. 4) - number of cases and resolutions

For the two cases which concluded with the discontinuation of the prosecution there was only one suspect/defendant (PCA Pitesti), the reason cited being "anti-Semitism" (PCA Bucharest) and "display of swastika" (PCA Pitesti).

In the three dismissed cases there was one suspect/defendant at PCA Alba Iulia, and the reasons cited being: "occupation" (PCA Alba Iulia) respectively "Roma ethnicity and antisemitism" (PCA Timișoara).

	Pre-existing cases	Newly added cases in 2022	Concluded	by referral to trial	by discontinuation of criminal prosecution	by dismissal
PCA Bucharest	1	1	1	0	0	1
PCA Alba Iulia	0	0	0	0	0	0
PCA Bacău	0	0	0	0	0	0
PCA Brașov	1	0	0	0	0	0
PCA Cluj	1	0	0	0	0	0
PCA Constanța	2	0	1	0	0	1
PCA Craiova	0	0	0	0	0	0
PCA Galați	0	0	0	0	0	0
PCA Iași	0	0	0	0	0	0
PCA Oradea	0	0	0	0	0	0
PCA Pitești	0	0	0	0	0	0
PCA Ploiești	0	0	0	0	0	0

PCA Suceava	0	0	0	0	0	0
PCA Târgu Mureș	1	1	0	0	0	0
PCA Timișoara	0	0	0	0	0	0
POHCCJ-CPFD	3	1	2	0	0	2
DIICOT	0	1	0	0	0	0
TOTAL	9	4	4	0	0	4

Table 20. Statistical overview for the year 2022, 1st semester - Promotion of persons guilty of genocide (GEO no. 31/2002, art. 5) - number of cases and resolutions

The four dismissed cases were resolved without suspects/defendants, the only reason cited being in the case from PCA Bucharest: "race".

	Pre-existing cases	Newly added cases in 2022	Concluded	by referral to trial	by discontinuation of criminal prosecution	by dismissal
PCA Bucharest	3	0	1	0	0	1
PCA Alba Iulia	0	0	0	0	0	0
PCA Bacău	0	0	0	0	0	0
PCA Brașov	0	0	0	0	0	0
PCA Cluj	1	0	0	0	0	0
PCA Constanța	0	0	0	0	0	0
PCA Craiova	0	0	0	0	0	0
PCA Galați	0	0	0	0	0	0
PCA Iași	1	0	1	0	0	1
PCA Oradea	0	0	0	0	0	0
PCA Pitești	0	0	0	0	0	0
PCA Ploiești	0	0	0	0	0	0
PCA Suceava	0	0	0	0	0	0
PCA Târgu Mureș	0	0	0	0	0	0
PCA Timișoara	0	0	0	0	0	0
POHCCJ-CPFD	1	1	2	0	0	2
TOTAL	6	1	4	0	0	4

Table 21. Statistical overview for the year 2022, 1st semester - Holocaust denial (GEO no. 31/2002, art. 6) - number of cases and resolutions

There were no suspects/defendants in the dismissed cases, the reason given being "race" (PCA Bucharest), "minimizing the Holocaust" (PCA Iași), no reason cited (POHCCJ-CPFD).

There was one case, registered at the PCA Bucharest in the previous period, concerning cyber threats on a discriminatory motive (GEO no. 31/2002 art. 61), the case remained unresolved.

II.1.3. Data on criminal files related to hate crimes and hate speech at the level of the Ministry of Justice

The Ministry of Justice contributes to the proper functioning of the judicial system and ensures there are proper conditions for the delivery of justice as a public service. Its main functions include the development of public policies, strategies and action plans in the justice field, the prevention of and fight against severe forms of crime, and the coordination and control of the uniform application of and compliance with the legal rules on the structure and functioning of institutions subordinated to or coordinated by the Ministry.

The Ministry of Justice database [9] does not allow the breakdown of judicial statistical data according to certain grounds, such as race, nationality, ethnic identity, religion, gender, sexual orientation, etc. The Ministry requested in 2016 the modification of the statistical system (ECRIS software) and received approval in 2017, but the requested changes have not been implemented.

Matter	Reference period	Pre-existing cases	Newly added cases since 2021	Settled cases
Incitement to hatred or discrimination (Article 369 of the Criminal Code)	2021	1	1	2
	first semester, 2022	0	0	0
Offences under GEO no. 31/2002	2021	2	2	2
	first semester, 2022	2	0	1
Torture (Article 282 of the Criminal Code)	2021	0	0	0
	first semester, 2022	0	0	0
Abuse of office (Article 297 of the Criminal Code)	2021	146	48	61
	first semester, 2022	133	29	27
Desecration of places or objects of worship (Article 382 of the Criminal Code)	2021	0	1	0
	first semester, 2022	1	0	0
Desecration of corpses or graves (Article 383 of the Criminal Code)	2021	5	8	4
	first semester, 2022	9	4	5

Table 22. Statistical overview of cases tried on the merits in Romanian courts - number of cases and resolutions

9. According to the letter of the Ministry of Justice No 4/74186 of 18.10.2022 sent to the CLR.

In 2021, one person received a final sentence for incitement to hatred or discrimination, with a postponement of the sentence execution [10], and in the first six months of 2022, another person received a criminal fine.

For offences under GEO 31/2002 two persons were sentenced in the first six months of 2022, both with deferred execution of the sentence.

In 2021, 32 persons received a final sentence for abuse of office [11], of which 6 with execution of the sentence in detention (5 between 3-5 years, 1 between 1-3 years), one person was fined, 24 with deferred execution of the sentence, in one case the execution of the sentence was postponed, while in the first six months of 2022, 20 persons received a final sentence (of which 4 legal entities): 9 with execution of the sentence in detention (1 over 10 years, 5 between 5-10 years, 2 between 3-5 years, 1 between 1-3 years), 4 persons were fined, 10 sentenced with deferred execution of the sentence, in one case execution of the sentence was postponed.

In 2021, two persons received a final sentence for the desecration of corpses or graves [12], both with execution of the sentence in prison (less than one year), while in the first six months of 2022, six persons received final sentences, three of them with execution of the sentence in detention (one between 3-5 years, two less than one year), three with deferred sentences.

10. Defendant A., by Criminal Sentence No. 129/20.03. 2020, issued by the Alexandria District Court, was sentenced for the offence of inciting hatred to 3 years of imprisonment, in a detention facility, for the offence of manufacturing, disseminating and possessing with an intent to disseminate fascist, legionary or xenophobic symbols to 3 years' imprisonment, in a detention facility, ultimately resulting in a sentence of 4 years' imprisonment, in a detention facility, with an order that the defendant undergo medical treatment until he recovers or until he is in stable condition. A metal khaki military helmet, a military-type shirt and a notebook with drawings of a fascist swastika and SS emblem were also confiscated. Defendant A. appealed against this criminal sentence. By Criminal Sentence No. 17/A of 18.01. 2021 pronounced by the Bucharest Court of Appeal, Criminal Section II, the appeal was upheld, imposing a sentence of 1-year imprisonment for the offence of incitement to hatred, 1-year imprisonment for the offence of manufacturing, disseminating or circulating fascist, racist or xenophobic symbols, ultimately imposing the final sentence of 1 year and 4 months imprisonment postponed for a period of supervision of 2 years. The appeal court held that the defendant A., between April and May 2015, posted on his social media page under the pseudonym "B.", on the social media network C., several photos publicly promoting fascist/nazi emblems/symbols, accompanied by discriminatory and threatening messages addressed to Roma and female persons, while inciting racial hatred against the Roma minority. Defendant A. submitted an appeal to the Supreme Court against the appeal decision. By Decision No 353/RC/2021 the High Court of Cassation and Justice dismissed the appeal. ([http://www.scj.ro/1093/Detalii-jurisprudenta?](http://www.scj.ro/1093/Detalii-jurisprudenta?customQuery%5B0%5D.Key=id&customQuery%5B0%5D.Value=186901#highlight=##%20incitare)

<http://www.scj.ro/1093/Detalii-jurisprudenta?customQuery%5B0%5D.Key=id&customQuery%5B0%5D.Value=186901#highlight=##%20incitare>)

11. The statistics do not specify whether the abuse was committed in the simple form (art. 297 para. 1) or based on a specific personal characteristic (art. 297 para. 2).

12. The statistics do not track whether or not hate motivation was an aggravating factor.

II.1.4. Data on hate speech reported by the National Audiovisual Council

CNA, established in 1992, is an autonomous public authority under parliamentary control, with the task of protecting the public interest in matters of audiovisual broadcasting services (radio, television), regulated by the Audiovisual Law. It issues decisions, recommendations and guidelines. It can be notified by others or can initiate investigations ex officio. The 11-member Council determines if there are infringements of the law and can impose an administrative penalty on audiovisual service providers. The decision can be appealed to the courts of appeal before the courts of appeal within 15 days.

According to the 2021 Activity Report [13], the CNA imposed 59 sanctions for the protection of human dignity and the right to one's image (28 summons, 29 fines, one decision on the obligation to broadcast for 10 minutes the text of the sanction only) and 12 sanctions related to discrimination, xenophobia and defamation (5 summons, 7 fines). In 2021, the CNA carried out 8272 monitoring activities on TV stations and 53 monitoring activities on radio stations, of which 3295 and 17 respectively, were related to the protection of human dignity and the right to one's image. They also monitored the TV broadcasters' coverage of certain topics, such as the "Bucharest Pride" and "Normality March" events on 14.08.2021.

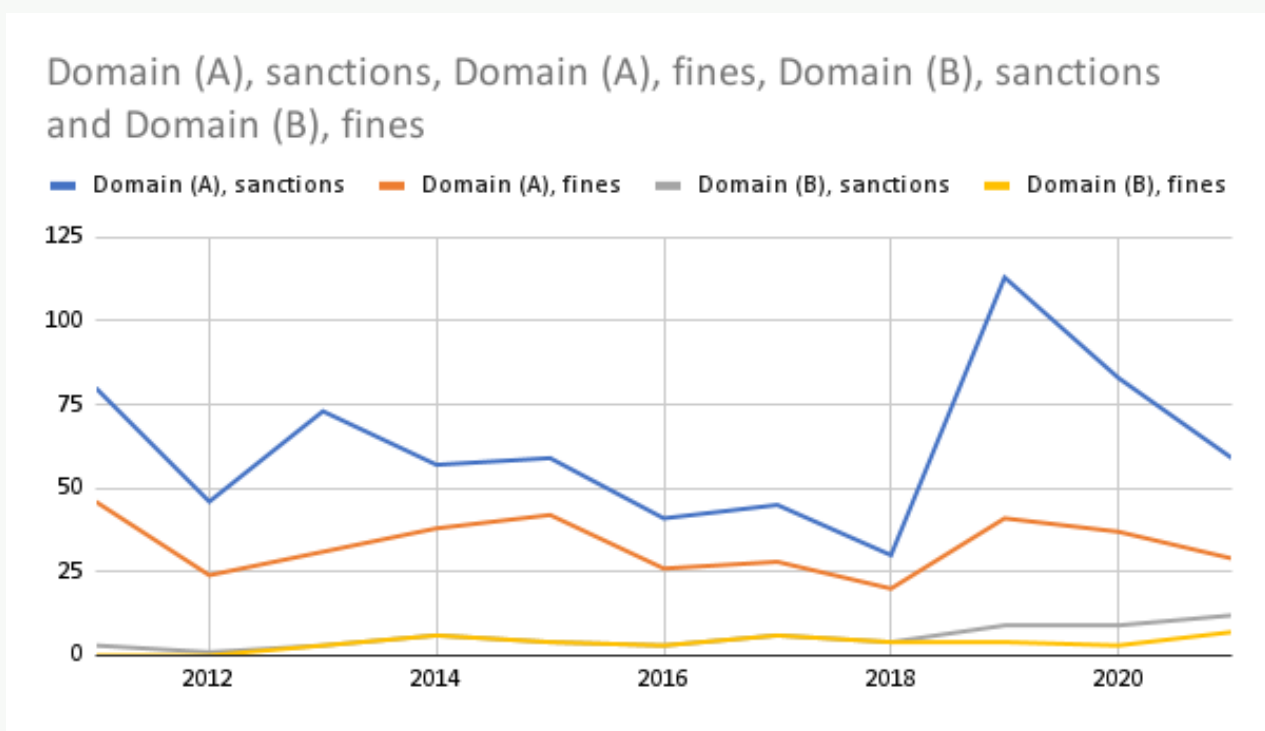


Figure 1. The evolution of the CNA's caseload regarding the protection of human dignity and the right to one's image (A) respectively discrimination, xenophobia and defamation (B) [14]

13. According to the 2021 Annual Report of the National Audiovisual Council, www.cna.ro/Raport-anual-2021.html

14. According to the annual reports of the National Audiovisual Council for the period 2011-2021, www.cna.ro/-Raport-anuale-.html.

The report details the following hate speech cases handled by the CNA:

- a food supplement commercial was found to promote serious stereotyping of the female gender, likely to damage human dignity ("the way in which the conflict scene between the two spouses is portrayed, i.e. the expression of the woman's discontent as a result of stress arising from household activities and the way in which the female character is portrayed, who appears stressed and temperamental, as well as the husband's reaction recommending the promoted product to calm her down");

- in a commercial promoting a particular shop, images associated with elements that are specific to the Christian religion, in the context

of the Easter celebrations, have conveyed an offensive message to people with religious convictions and, therefore, to religious symbols.



Through Notification no. 10340RF/20.10.2022, the CNA provided the following details: in 2021, for violation of the provisions of broadcasting legislation on incitement to hatred, discrimination, xenophobia and defamation, the CNA issued 4 warnings (to Kanal D through Decision no. 17/2021, to Pro TV through Decision no. 459/2021, to Realitatea Plus through Decision No 36/2021, to România TV through Decision No 272/2021) and 7 fines (for Antena 1 through Decision No 10/2021 and Decision No 115/2021, for Realitatea Plus through Decision No 2/2021 and Decision No 421/2021, for România TV through Decision No 297/2021 and Decision No 409/2021, for Nașul TV through Decision No 231/2021).

On the same grounds, in 2022 they sanctioned: Digi Sport 2 through Decision No 121/2022, Prima TV through Decision No 531/2022, Realitatea Plus through Decision No 211/2022, România TV through Decisions No 95, 98 and 354/2022, Nașul TV through Decisions No 136, 201 and 307/2022, Gold FM through Decision No 222/2022.

During the period 01.01.2021-30.06.2022 there were no sanctions for violation of Art. 29 para. (1) letter d) of the Audiovisual Law (audiovisual commercial broadcasting that includes discrimination).

Decision no.	Subject	Criteria	Sanction
2/2021	criticising not using the religious wording when taking an oath, stating: "most of them are godless people and homosexuals"	religion, belief (atheist) + sexual orientation	10.000 lei
10/2021	derogatory comments about elderly or disabled people	age + disability	5.000 lei
17/2021	the statement: "you fight like g*psies"	race, ethnicity, nationality (Roma)	summons
36/2021	references to Roma criminality	race, ethnicity, nationality (Roma)	summons
115/2021	denigrating a mayor of Arab origin by stating "the Arab vice-mayor enforces the law with his fists", "go to your own country, this is our City Hall, it is our Romania", "we have come to be trampled by foreigners in our own country"	race, ethnicity, nationality (Arab)	10.000 lei
219/2021	apologetic presentation of Ion Antonescu		10.000 lei
231/2021	denigrating people ("he's a homosexual and he's very vulnerable about it", "a foreigner comes to my country, an anti-Christian, to tell me how we're allowed to celebrate Easter", "we're led by foreigners or by nobodies put there by foreigners")	race, ethnicity, nationality (Arab) + sexual orientation + religion (non-Christian)	30.000 lei
272/2021	xenophobic statement against Raed Arafat ("he has three nationalities, so I don't know on whose behalf he's acting here, but not on behalf of Romania")	race, ethnicity, nationality (Arab)	summons
297/2021	xenophobic remarks against Clotilde Armand ("the slums and the g*psy ghettos", " Mrs Clotilde, the French lady")	race, ethnicity, nationality (French + Roma)	60.000 lei
298/2021	presenting in a critical manner "Bucharest Pride", without giving the event organizers' point of view	sexual orientation	10.000 lei
309/2021	accusations against USR-PLUS for promoting neo-Marxism, gender ideology	political opinion + sexual orientation	5.000 lei
407/2021	negative statements against transgender people in relation to the Matić report	sexual orientation	summons

409/2021	xenophobic statement against Clotilde Armand ("they've been flooding us lately with LGBT stuff; drugs, abortion, prostitution, there's a visceral hatred in my little country. Brothers, how much longer can we go on?", "men give birth while children starve, 200,000 children go to bed hungry every night and we are more concerned about drugs")	race, ethnicity, nationality (French) + sexual orientation	10.000 lei
421/2021	disparaging remarks about Alina Gorghiu as a woman in politics	gender (female)	15.000 lei
459/2021	"generalizing derogatory statements against women and a sexual minority community"	gender (female) + sexual orientation	summons
80/2022	derogatory remarks about women, claiming that they get into politics by having sex ("the president of the Agency for Digitalization brought his porno girlfriend into the government")	gender (female)	5.000 lei
87/2022	anti-Semitic statements, denying the involvement of the Romanian authorities in the Iași pogrom of 1941	race, ethnicity, nationality (Jewish)	10.000 lei
95/2022	xenophobic comments ("this European police is mostly made of detachments of immigrants, Afghans, Libyans, Syrians, Algerians and some Europeans who know how to handle weapons and these people will be taken to crisis areas")	race, ethnicity, nationality	summons
98/2022	homophobic comments regarding a European Court of Justice decision on issuing a birth certificate for a baby girl to a gay couple in Bulgaria	sexual orientation	summons
111/2022	references to Roma criminality, the proposal to expel Roma ("all these people who don't respect the law, let's round them up and take them... look!... to India... there are still so many unpopulated places there and they all look alike")	race, ethnicity, nationality (Roma)	10.000 lei
267/2022	the statements "neo-Marxists want to ban Christmas", references to a "video of a gay Santa Claus"	political opinion + sexual orientation	summons
293/2022	accusations against USR-PLUS, for promoting of gender ideology	sexual orientation	summons
316/2022	inaccurately informing the public about the singing of the Szekler anthem at the hockey match between Romania and Hungary	race, ethnicity, nationality (Hungarian)	summons

Table 23. Analysis of cases handled by the CNA in 2021 and the first six months of 2022 with sanctioning of statements that constitute incitement to hatred, discrimination, xenophobia or defamation, i.e. denying the Holocaust and promoting the image of persons guilty of genocide [15].

15. According to the sanctioning decisions of the National Audiovisual Council, <https://www.cna.ro/-Decizii-de-sanctionare-2021-.html>

II.1.5. Data on hate speech reported by the National Council for Combating Discrimination

The NCCD, established in 2002, that was initially an authority subordinated to the Government, and whose activity is regulated by Ordinance No. 137/2000 on preventing and sanctioning all forms of discrimination (as subsequently amended) "is the autonomous state authority in the field of discrimination, with legal status, under parliamentary control and also being responsible for ensuring compliance with and application of the principle of non-discrimination, in accordance with the domestic legislation in force and the international agreements to which Romania is a party." (O.G. no. 137/2000, art. 16).

The NCCD is responsible for preventing, mediating, investigating, recording, and sanctioning acts of discrimination, monitoring such acts and providing specialized assistance to victims of discrimination (O.G. no. 137/2000, art. 19). It receives petitions from victims, interested persons, including non-governmental organisations, or it carries out investigations ex officio.

Petitions are dealt with according to a special procedure (Procedure for resolving petitions and complaints, approved by Order of the President of the CNCD no. 144 of 11 April 2008, published in OGR no. 348 of 6 May 2008) following the hearing of the parties (petitioners and respondents), the submission of the parties' positions, and in some cases, investigations by the 9 members of the Steering Committee acting by vote.

The substantiated decision, which in the case of finding discrimination grounds also contains the administrative penalty, is communicated to the parties, who may appeal this decision by administrative appeal (at the level of the Courts of Appeal), without prior procedure, within 15 days of being notified. The NCCD has powers not only in the field of discrimination under Ordinance No 137/2000 on the prevention and sanctioning of all forms of discrimination, but also in the field of discrimination under Law No 202/2002 on equal opportunities for women and men.

The NCCD statistics are not strictly in the area of hate speech. On the one hand, they refer to harassment, as one of the forms of discrimination (in addition to direct, indirect discrimination, etc.), on the other hand to the right to personal dignity (as one of the areas of discrimination, in addition to equality in economic activity and in employment and occupation; access to public administrative and legal services, health and other services, goods, and facilities; access to education; freedom of movement, right to free choice of residence and access to public spaces). The legal difference between the two concepts is that a violation of the right to dignity can only be established when the conduct is manifested in public.

Thus, for example, sending a person a text message that constitutes hate speech can be sanctioned as harassment, while the same messages, if posted on Facebook, can be classified as violating the right to dignity. Not all cases where the right to dignity is violated are related to hate speech. For instance, the NCCD has found that allowing parents to request virginity tests in forensic units for underage children is a violation of the right to dignity (Decision No 576/2022).

The 2021 NCCD activity report [16] shows that during the year, 1048 complaints were registered, 263 of which were related to the right to personal dignity. Of the 263 complaints, 66 cited beliefs as a criterion, 50 nationality, 31 ethnicity, 20 gender, 14 religion, 11 sexual orientation, 10 social category, 8 age, 7 disability, 2 language, 43 other. There were 12 self-inquiries on this subject out of a total of 15 self-inquiries in 2021 [17].

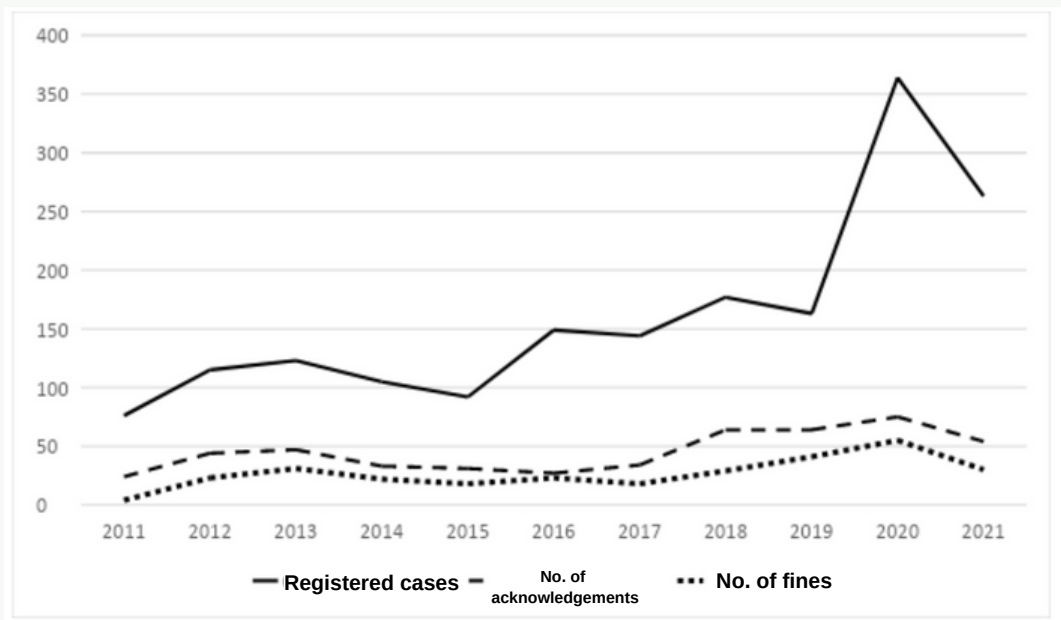


Figure 2. Evolution of the NCCD caseload regarding the right to personal dignity [18]

Of the NCCD findings, 14% related to harassment.

Regarding the right to personal dignity, in 2021, discrimination was found in 54 cases, in 70 cases no discrimination was found, 115 decisions were to close the previous file, and in 85 cases exceptions were admitted without analysis of the merits. 30 fines were imposed (for a total amount of 126,000 lei), 28 warnings were issued, in 12 cases recommendations were made, in 7 cases the respondent was obliged to publish the summary of the decision, and in 2 cases the NCCD ordered a monitoring of the situation.

The report presents five decisions in this respect.

16. According to the 2021 activity report of the National Council for Combating Discrimination, www.cncd.ro/wp-content/uploads/2022/04/Raport-de-activitate-CNCD-2021-.pdf

17. According to the NCCD letter no. 8011/08.11.2022 sent to CLR, the criterion ethnicity or race includes Roma and ethnic minorities (without specifying the difference between race and ethnicity, respectively between Roma and ethnic minorities); nationality includes national minorities (without specifying why Roma are not part of national minorities, and what is the difference between this criterion and the criterion ethnicity, race, which also refers to ethnic minorities), citizenship being a different listed category.

18. According to the NCCD annual reports for 2011-2021 (www.cncd.ro/rapoarte/), the increase in registered cases in 2020 is largely due to petitions concerning measures imposed during the pandemic that allegedly affected the right to dignity.

19. Several people filed different petitions, but with identical subject matter.

By Decision No 274/2021 and Decision No 721/2021 respectively, the same defendant was sanctioned for misogynistic statements with an administrative fine of 15,000 lei and 10,000 lei respectively.

Decision No. 44/2021, concerning statements against Romanian citizens ("scum, stupid, traitors, cowards, filthy, disgusting, illiterate, illiterate, evil, junkies, retarded", "inferior people", "the most backward people", "the most retarded people in Europe") ordered the author of the statements to be fined 8,000 lei.

By Decision No 551/2021, the defendant was fined 5,000 lei for anti-Magyar statements ("they are socially maladjusted people, and their psychological issues make them unable to stand anyone else around them").

Decision No 802/2021 sanctioned one defendant for negative statements against the Roma (use of the terms "g*psy" or "ugly g*psy", implying superiority over the Roma) with a fine of 5,000 lei.

Decision No.	Subject	Criteria	Resolution
1/2021	video of a song with discriminatory content against women	gender (female)	non-incidence, criminal acts
5/2021	promoting the idea of separating children with disabilities from non-disabled children	disability	acknowledgement, warning
6/2021	the portrayal of the virus as an invisible threat, compared to visible ethnic minorities towards which there would have been a greater level of public concern	race, ethnicity, nationality	it does not exceed the limit of freedom of expression
7/2021	use of the term 'Jew' in court	race, ethnicity, nationality (Jewish)	dismissal, incomplete petition
10/2021 [20]	criticising practices promoted by the Romanian Orthodox Church that spread the coronavirus	religion, belief (Christian Orthodox)	dismissal of a previous decision (which included an acknowledgement, and a 5,000 lei fine)

20. Identical rulings through the following Decisions 11/2021, 12/2021, 13/2021, 14/2021, 15/2021, 16/2021, 26/2021, 27/2021, 28/2021, 29/2021, 30/2021, 31/2021, 32/2021, 33/2021, 34/2021, 35/2021, 36/2021, 37/2021, 38/2021, 48/2021, 49/2021, 50/2021, 51/2021, 52/2021, 53/2021, 54/2021, 55/2021, 56/2021, 57/2021, 58/2021, 59/2021, 70/2021, 71/2021, 72/2021, 73/2021, 74/2021, 75/2021, 76/2021, 77/2021, 85/2021, 86/2021, 87/2021, 88/2021, 89/2021, 90/2021, 91/2021, 92/2021, 93/2021, 94/2021, 95/2021, 96/2021, 97/2021, 98/2021, 99/2021, 100/2021, 109/2021, 110/2021, 111/2021, 112/2021, 113/2021, 114/2021, 115/2021, 116/2021, 117/2021, 118/2021, 119/2021, 120/2021, 121/2021, 123/2021, 124/2021, 125/2021, 126/2021, 127/2021, 128/2021, 129/2021, 130/2021, 131/2021, 132/2021, 133/2021, 134/2021, 135/2021, 136/2021, 137/2021, 142/2021, 143/2021, 144/2021, 145/2021, 146/2021, 147/2021, 148/2021, 149/2021, 150/2021, 151/2021, 152/2021, 156/2021, 157/2021, 158/2021, 159/2021, 160/2021, 161/2021, 162/2021, 190/2021, 191/2021, 192/2021, 193/2021, 194/2021, 195/2021, 207/2021, 208/2021, 256/2021.

18/2021	the use of the phrase: "spell it goddamn right, you G*PSY!"	race, ethnicity, nationality (Roma)	dismissal, incomplete petition
22/2021	criticizing the initiative for the autonomy of Szeklerland	race, ethnicity, nationality (Hungarian)	it does not exceed the limit of freedom of expression
23/2021	denigrating a symbol of the Jewish community	race, ethnicity, nationality (Jewish)	acknowledgement, 5,000 lei fine
24/2021	use of the term "an HIV-positive bastard"	HIV infection	it does not exceed the limit of freedom of expression
41/2021	dissatisfaction with a court ruling on anti-Hungarian statements	race, ethnicity, nationality (Hungarian)	lack of jurisdiction
44/2021	statements: "inferior people" (referring to Roma), "stupid", "traitors", "filthy" (referring to Romanians), "the stupidest people on earth", "scum" (referring to policemen)	race, ethnicity, nationality (Roma, Romanian) + socio-professional category	acknowledgement, 8,000 lei fine
46/2021	insults like: "slut, whore, baby-breeder"	gender (female)	petition withdrawal
47/2021	use of the terms "crippled" and "slave"	disability	petition withdrawal
68/2021	Facebook comments suggesting that Romania should "put things in order in Hungaria", i.e. Roma should be moved to "Hungaria and Covasna"	race, ethnicity, nationality (Hungarian)	the acts do not constitute discrimination [21]
81/2021	specifying Roma ethnicity in a newspaper article on the non-compliance with quarantine rules, an article which attracted comments inciting violence ("Put the crows in sulphuric acid and caustic soda, not quarantine. Repulsive g*psies!" ['Crows' is used as derogatory term for Roma])	race, ethnicity, nationality (Roma)	acknowledgement, warning, recommendation, order to publish a summary of the decision in the press

21. The reasoning is not clear, it is stated that the plaintiff is not responsible for the comments made by others on his website, freedom of expression is also cited, but in the end it is only stated that "the facts complained of do not constitute acts of discrimination".

82/2021	the use of the term "peasant from Dej" against a police commander	socio-professional category	it does not exceed the limit of freedom of expression
103/2021	the phrase "Tibi, I'll kill you, you f...ing Hungarian, you ruined my mood!"	race, ethnicity, nationality (Hungarian)	dismissal, there is a criminal complaint
106/2021	statements about Jesus: "A child. Poor and from a very strange family. A father past his prime and a teenage mother. Came into the world without his parents ever making love. With a surrogate mother and a father who accepts paternity without having contributed to it. Rejected by the community. Born out of wedlock, his parents were only engaged. His birth shows the extraordinary, but also the limitations of the society in which he was born."	religion, belief (Christian)	acknowledgement, 5,000 lei fine
141/2021	disclosing a prisoner's HIV diagnosis	HIV infection	late petition
164/2021	insulting a person diagnosed with Down syndrome	disability	lack of <i>locus standi</i>
167/2021	insults on the grounds of Roma ethnicity	race, ethnicity, nationality (Roma)	lack of evidence
169/2021	posters in which the icon of Jesus Christ the Redeemer and Virgin Mary have been reinterpreted and portrayed in medical equipment	religion, belief (Christian)	dismissal of a previous decision (the act does not constitute discrimination)
174/2021	chanting "Leave, leave, Hungarians leave our country!", at a football match	race, ethnicity, nationality (Hungarian)	lack of evidence
175/2021	statement about Hungarians: "they are socially maladjusted people, and their psychological issues make them unable to stand anyone else around them"	race, ethnicity, nationality (Hungarian)	dismissal, there is a criminal complaint

181/2021	Linking persons infected with coronavirus with their belonging to the Roma community	race, ethnicity, nationality (Roma)	acknowledgement, warning
184/2021	criticism of people who are nostalgic for Ceausescu	age	the acts do not constitute discrimination
189/2021	the statement: "President Iohannis is indebted to the Jews for not accusing him of having taken over, with proper papers, through the German Democratic Forum, the assets of the German Ethnic Group, disbanded after the war as a Nazi organisation"	race, ethnicity, nationality (German)	petition withdrawal
196/2021	expressing a desire for revenge against the Roma for a criminal offence	race, ethnicity, nationality (Roma)	dismissal, there is a criminal complaint
202/2021	humiliating beggars, by publishing photos, when participating in a session to inform them about their accommodation in social centres	social category (beggars)	it does not exceed the limit of freedom of expression
203/2021	use of the term "you g*psies!"	race, ethnicity, nationality (Roma)	lack of evidence
204/2021	a call to avoid voting for "g*psy" mayors "who cannot read and write"	race, ethnicity, nationality (Roma)	acknowledgement, 2,000 lei fine for three persons, recommendation
205/2021	posting a picture showing three Roma women dressed in traditional attire, accompanied by the following message, with grammatical errors: "We are waiting for May 15 so we go and visit museums"	race, ethnicity, nationality (Roma)	acknowledgement, 2,000 lei fine, recommendation

214/2021	anti-Hungarian chants at a football match ("Leave, leave, Hungarians leave our country!", "Hungary sucks our d...k!", "You Bozgor, we will defend Romania")	race, ethnicity, nationality (Hungarian)	acknowledgement, 5,000 lei fine
215/2021	reference to Nazis in relation to a proposal from a person perceived to be ethnic German	race, ethnicity, nationality (German)	acknowledgement, warning
216/2021	unspecified	unspecified	lack of <i>locus standi</i>
219/2021	article entitled "The hoboes' 'bedroom' inside the central heating plant, during pandemic times"	social circumstances	it does not exceed the limit of freedom of expression
234/2021	comment: "You little g*psy thing, you like to break up families with 3-month-old babies, you nasty woman"	race, ethnicity, nationality (Roma)	dismissal, incomplete petition
236/2021	political slogan "a Romania free of petty theft"	race, ethnicity, nationality (Romanian)	lack of <i>locus standi</i>
239/2021	posting a picture of crows, alluding to Roma	race, ethnicity, nationality (Roma)	acknowledgement, 2,000 lei fine
240/2021	the statement: "Public health is threatened by COVID, and Romanian politics are threatened by PSD"	political beliefs	acknowledgement, warning
241/2021	the statement: "The gangs of g*psies from Romania, who rob, steal and beg in the West, give us a negative image and as a result we cannot join Schengen. We need a program with repressive and social measures".	race, ethnicity, nationality (Roma)	acknowledgement, 2,000 lei fine
243/2021	references to the ethnic background of the claimant's grandfather	race, ethnicity, nationality (German)	the acts do not constitute discrimination
250/2021	the claim: "a crook from Palestine who's been playing around in our country"	race, ethnicity, nationality (Arab)	acknowledgement, warning
260/2021	insults and physical aggression	unspecified	lack of subject-matter jurisdiction, criminal acts

262/2021	references to religious relics as "carcasses" licked through plexiglass, by people with a mental development of a jellyfish	religion, belief (Christian)	acknowledgement, warning
265/2021	referring to a person as taking advantage of sick leave	illness	the acts do not constitute discrimination, missing criteria
266/2021	the claim that members of a party are "atheistic and satanic", therefore the party must be destroyed	political beliefs	it does not exceed the limit of freedom of expression
270/2021	the use of the term "slick, money-grubbing PSD member"	political beliefs	acknowledgement, 2,000 lei fine
271/2021	name-calling ("stupid, lecherous, you don't have a minimum of decency, I won't talk to her because you have no education") and physical assault	disadvantaged group	non-incidence [22]
274/2021	the statements "women are slaves to men", "people have lost their minds and say "let's make women equal to men"", "everything comes to dust when women rule"	gender (female)	acknowledgement, 10,000 lei fine [23]
276/2021	Romanian president portrayed as a Nazi leader	race, ethnicity, nationality (German)	acknowledgement, warning
277/2021	use of the phrase "shakes hands even with the cripples"	disability	late petition
278/2021	reference to a local counsellor, with the statement that he "grew up in the children's home"	disadvantaged group	acknowledgement, warning
299/2021	the use of the phrase "man hiding behind a woman's skirt"	gender (female)	it does not exceed the limit of freedom of expression
313/2021	racist slurs: "crow, g*psy, filthy"	race, ethnicity, nationality (Roma)	dismissal of a previous decision (allegations not substantiated)
314/2021	use of the terms "g*psy", "black" on messenger by mother-in-law and brothers-in-law	race, ethnicity, nationality (Roma)	non-incidence, the statements were made within the family
321/2021	reference to retired people voting for populist candidates	age	acknowledgement, 3,000 lei fine
322/2021	the statement: "you Arabs are stupid and should leave town"	race, ethnicity, nationality (Arab)	no causal link can be found between the criteria and the alleged act [24]

22. The reasoning argues that there is no causal link between the alleged criterion and the alleged actions.

23. The reasoning for the fine states that the defendant has previously been sanctioned for similar acts.

24. The judgement states that the allegation has not been proven.

324/2021	reference to one's background in a doctoral program entrance exam: "why do you need doctoral studies, when you sing on ships"	professional category	late petition
329/2021	the use of the term "convicted criminal" in relation to an electoral candidate who did not actually have a conviction	social category (convicted)	lack of evidence
335/2021	article criticizing the adoption of legislative measures favorable to the Hungarian community, which received comments such as: "we'd better kill the thieves in the government, then do an ethnic cleansing"	race, ethnicity, nationality (Hungarian)	acknowledgement, 3,000 lei fine for not deleting comments, referral to criminal investigation authorities for authors of comments inciting to hatred and violence
336/2021	Posting a message about the autonomy of Szeklerland, which received messages calling for "axes and pitchforks, weapons in general" and comments like: "if they don't like it in Romania, they are free to go to Mongolia", "it is clear that nothing can be done peacefully".	race, ethnicity, nationality (Hungarian)	acknowledgement, 3,000 lei fine for not deleting comments, referral to criminal investigation authorities for authors of comments inciting to hatred and violence
337/2021	article referring to a person wishing to become a member of the NCCD Board of Directors, believing he has links with Romanian nationalist parties, engaging in activities that limit the rights of the Hungarian community in Romania	political beliefs	it does not exceed the limit of freedom of expression
348/2021	insulting remarks to the petitioner, such as: "this handicapped one should get out of here", "we'll take the wheelchair outside and get him out", "you cripple"	disability	petition withdrawal
352/2021	Statements such as "The Romanian Orthodox Church is an extremist cult and a danger for Romania", "There is no organisation more evil than the Romanian Orthodox Church. They want as many of us as possible to die of the virus, they want to destroy democracy, to eliminate people's freedoms, to take us out of the EU and NATO"	religion, belief (Christian Orthodox)	lack of <i>locus standi</i>
353/2021	the statement "To hell with the g*psies!"	race, ethnicity, nationality (Roma)	acknowledgement, warning
366/2021	use of the term "handicapped"	disability	the acts do not constitute discrimination [25]

25. The reasoning states that there is no evidence to support the allegation.

368/2021	displaying a picture using the term "homosexual"	sexual orientation	dismissal, incomplete petition
369/2021	use of the terms "man without a country (palestine)", "we yielded our city ... to the Arabs"	race, ethnicity, nationality (Arab)	dismissal, incomplete petition
371/2021	the publication of an edited caricature photo of a crow with a woman's head, wearing traditional Roma clothing, accompanied by comments referring to ethnic criminality	race, ethnicity, nationality (Roma)	lack of evidence
379/2021	TV show with racist jokes against Roma, referring to "crows"	race, ethnicity, nationality (Roma)	lack of <i>locus standi</i>
394/2021	xenophobic statements, hitting and aggressive behaviour	race, ethnicity, nationality (Hungarian)	lack of subject-matter jurisdiction, criminal acts
398/2021	discriminatory statements "g*psy, common whore, prostitute, psychopath, murderer, g*psy nation, Ferentari ghetto bum"	race, ethnicity, nationality (Roma)	late petition
399/2021	not deleting messages posted on Facebook such as "where have you seen tolerant Hungarians?", "Hungarians are racist"	race, ethnicity, nationality (Hungarian)	acknowledgement, warning, recommendation
400/2021	not deleting messages posted on Facebook about Hungarians such as "mentally disturbed people living in the past", "unfortunately Stalin prevented a mass repatriation of Hungarians and Germans from Transylvania cause it would have been great if Dej had sent them back to their homeland", "I'm not an extremist, but Hungarians always wished us ill, we must always keep an eye on them", "we'll show you, you goddamn fucking supreme race", "let me give you a piece of advice, take your suitcases and scurry to your Hungary because you're defiling our land, we'll slaughter you soon", "damn you Mongolians, damned and expelled", "when the Romanians revolt, you'll rue the day"	race, ethnicity, nationality (Hungarian)	non-incidence, facts of criminal nature, sending a copy of the file to IPJ Covasna, Criminal Investigation Department
403/2021	claiming that a person is illiterate and frail	disability	the acts do not constitute discrimination [26]

26. The defendant's alleged statements are not motivated by any mental disability of the applicant, but by the manner in which the applicant had previously offended and threatened him.

414/2021	association of possible coronavirus contamination of a pupil with her Roma ethnicity	race, ethnicity, nationality (Roma)	the act does not constitute discrimination, there is no causal link between the criteria and the alleged act [27]
423/2021	presenting a person who employs only Hungarians, using in a pejorative way the term "Hungarian", asking for his expulsion out of Romania, generalizing this behavior which causes the refusal to employ Romanians in the "so-called Szeklerland"	race, ethnicity, nationality (Hungarian)	acknowledgement, 2,000 lei fine
424/2021	associating PSD with theft and looting	political beliefs	it does not exceed the limit of freedom of expression
439/2021	use of the words "securist" [member of The Securitate], "foreigner" in a book	profession + race, ethnicity, nationality	incomplete petition
441/2021	sexual harassment as a criminal offence by posting online: "Dear Visinel, you f...ing moron, f...k you, you moron, he thinks he's the one who knows everything. It's not worth talking nice to him. I was quite understanding, I said you don't mess with the fool, because he's gonna turn into an enemy but he always gets in the way. In his stupidity he always thinks he's right."	gender (male)	lack of jurisdiction, criminal acts
448/2021	use of the term "convict"	social category (convicted)	acknowledgement, warning, recommendation
455/2021	publishing a post on Facebook about running character-building camps with the text "you don't have to kidnap any Jews for this camp to work", "Concentration camp is how I manage to achieve in 3 days what others do in 3 months."	race, ethnicity, nationality (Jewish)	acknowledgement, warning, recommendation
461/2021	the use of the terms "you whacko", "you weirdo", "you schizo" towards a person with a disability	disability	acknowledgement, warning
463/2021	sending an e-mail to several people, claiming that the petitioner is a sociopath without any discernment	different criteria [28]	acknowledgement, warning

27. The reasoning argues that the press misreported a telephone conversation.

28. The ruling does not examine the criterion.

474/2021	homophobic messages posted on Facebook about gay people, calling them "f*gs"	sexual orientation	incomplete petition
480/2021	A priest's statement on a television station that women cannot be priests "because that is her condition. She cannot be perpetually praying, because her condition is defined by weakness." "This is what it means to be a woman. She originated the sin, thus she finds herself suffering from this weakness"	gender (female)	the act does not constitute discrimination
483/2021	public statement concerning the granting of social assistance to the applicant	disability	the act does not constitute discrimination, no causal link between the criterion and the alleged act
490/2021	the claim that some areas of Romania, such as Reșița or Valea Jiului, would be depressive	disadvantaged group	the act does not constitute discrimination, no causal link between the criterion and the alleged act
491/2021	promoting sexism and misogyny through a Facebook ad in which women wear revealing clothing while making references to specific female and male body parts with sexual overtones ("these go great with my tomatoes, but also your cucumbers", "I want to penetrate fast the root territory")	gender (female)	acknowledgement, 5,000 lei fine
507/2021	analysing a person's candidacy for a position in the party, linking it to their ethnicity, suggesting that they would be Roma	race, ethnicity, nationality (Roma)	acknowledgement, 2,000 lei fine
511/2021	aggressive behaviour, verbal abuse towards a Roma person	race, ethnicity, nationality (Roma)	incomplete petition
513/2021	publication of the text on the official page of a town hall: "Considering other viewpoints, we can conclude that when such garbage platforms are used, there is also a large Roma settlement in the area, which we believe is not beneficial for the two UATs!"	race, ethnicity, nationality (Roma)	lack of <i>locus standi</i>
514/2021	posting on Facebook the message "Romania, Happy Birthday, without Hungarians and G*psies!!!"	race, ethnicity, nationality (Hungarian + Roma)	incomplete petition
522/2021	use of the term "g*psy" in a derogatory manner	race, ethnicity, nationality (Roma)	acknowledgement, warning, recommendation

29. The reasoning invokes religious freedom.

30. Unidentifiable defendant.

529/2021	Political statements made by the President of Romania against the DAHR	race, ethnicity, nationality (Hungarian)	dismissal of a previous decision (acknowledgement, 5,000 lei fine [31])
531/2021	sharing an image of crows on a Facebook page with the caption: "Țândărei Airport, all flights cancelled"	race, ethnicity, nationality (Roma)	falls within the limits of freedom of expression [32]
533/2021	publication of false texts about the DAHR, which have been the subject of comments such as "Cursed people of the lost lands, put the DAHR's back to the wall, a party of filthy, vulgar, satanic, filthy <i>Bozgors</i> [Romanian slur for Hungarian people]", " get them on their knees against the wall and shoot them in the back of the head", "f...k the filthy <i>Bozgors</i> in the throat", "send them to Hungary, out of our country, out with the Hungarians, the Germans and the Arabs!"	race, ethnicity, nationality (Hungarian)	the published texts are within the limits of freedom of expression, for not deleting comments: acknowledgement, warning
534/2021	homophobic, misogynist, racist comments against leftists, which were deleted when reported [33]	sexual orientation + gender (female) + race, ethnicity, nationality + political beliefs (left)	the act does not constitute discrimination (given the immediate deletion of messages when flagged as discriminatory)
535/2021	use of the phrase "Nazi questions"		the act does not constitute discrimination, missing criteria
540/2021	anti-Hungarian statements on a TV channel ("in Cluj or in Târgu-Mureș you have to speak Hungarian, you can't speak Romanian anymore", suggesting the application of similar measures as in Spain: "tanks in Madrid and Barcelona, tanks, you understand what that is, they fired their cannons at them")	race, ethnicity, nationality (Hungarian)	lack of <i>locus standi</i> [34]
542/2021	publication of an article against a DAHR mayor, to which comments such as: "traitors of nation and country" (not deleted), "bozgors" (comments containing this word were deleted)	race, ethnicity, nationality (Hungarian)	acknowledgement, warning

31. Decision 443/2020 examined the allegations in their entirety, holding that two parliamentary parties, PSD and UDMR, are accused of actions against state security, affecting the territorial integrity and sovereignty of the Romanian state, the PSD had collaborated with a foreign power to undermine state security, according to the ethnic cliché that "the Hungarians are stealing Transylvania" ("PSD is fighting behind closed doors in the Parliament to give Transylvania to the Hungarians").

32. In a previous case, with identical subject matter, the NCCD found and sanctioned discrimination, but the decision was annulled by the court.

33. The decision does not provide said comments.

34. The Mikó Imre Association for the Protection of Minority Rights, which had previously filed a number of successful petitions, "did not prove its standing or interest before the National Council for Combating Discrimination".

551/2021	anti-Hungarian statements ("they are socially maladjusted people, and their psychological issues make them unable to stand anyone else around them")	race, ethnicity, nationality (Hungarian)	acknowledgement, 5,000 lei fine
552/2021	statements against the Romanian Orthodox Church ("I look at those faces distorted by lust, by primitive instincts, those Middle Ages, Inquisition faces, not wearing any mask, exchanging fluids in the middle of a pandemic, forgetting that Jesus wanted them to be Christians, not morons, and I realize that I have nothing in common with them. Me, a Christian Orthodox.", "If these are Christians it means the "spiritual fathers" have failed to educate. I know, they're not to blame, it's the poverty, the deprivation... Well, I've run out of empathy for them! Yes, they are guilty to a large extent because, for over 60 years since mass literacy began, they could have pulled themselves out of the dark ages a bit. And common sense doesn't necessarily have to be learned from a book, it's enough to find it in the family. But the most guilty party, in my opinion, is the institution of the Church." "Of course, there's a face to this, only one man: Daniel the Patriarch! He could have been, could be, understanding like Pope Francis. He could bring peace with kind words, not with a stick on the people's backs. He could be humble, not arrogant. He should understand that there is more to this world than what he sees and hears in a cathedral. He should understand that plain and simple there are many stupid sheep, because that is the way of the times, and he needed to enlighten them. But he can't. He lost a good chance to speak up. Wait, he actually spoke... I stand corrected, he missed a good chance to shut up. This being said, I hope I don't get excommunicated.")	religion, belief (Christian Orthodox)	falls within the limits of freedom of expression
555/2021	campaign with the slogan "Man! Not Roma!", with funding from the European Union, within the project "Integrated! Not assisted! Social and economic development of disadvantaged people in the southwest of Pitesti municipality".	race, ethnicity, nationality (Roma)	the act does not constitute discrimination (no right infringed)
559/2021	abuse of office, allegations concerning the petitioner's Arab origin	race, ethnicity, nationality (Arab)	lack of jurisdiction, criminal acts
563/2021	Facebook political campaign against a Protestant candidate: "The commune of Sascut has an 80% Orthodox Christian population and the remaining 20% Catholic Christians. The Protestant Church does not exist !!! [...] The Protestant Church is the total opposite of the Orthodox faith,	religion, belief (Protestant)	acknowledgement, warning

	they only believe in the Bible which according to them is written by God Himself, they don't believe in Churches, they don't believe in icons, saints, and priestly garments. They don't believe in the Birth of Jesus Christ, they don't believe in the Virgin Mary, they don't celebrate Holy Easter, and they don't celebrate Christmas. [...] A person like him has but one purpose, to single out the weak Orthodox Christian and persuade him to abandon the Orthodox faith for the Protestant cult."		
565/2021	posting a text claiming that those who voted for Minority SafePack promote Hungarian nationalism and revisionism, prompting messages such as "out with these thieves", "these people are like hyenas", "one uglier than the other", "scum", "it's about time they were removed at any cost even through bloodshed", "to jail with all the thieves", "the Hungarians have become masters of our own country", "these people are the only good for shooting"	race, ethnicity, nationality (Hungarian)	the text is within the limits of freedom of expression, regarding the comments the file is sent to the Public Prosecutor's Office
566/2021	the defendant's request for the removal of the inscription in Hungarian on the Gheorghieni Town Hall building (the inscription "Városháza" [35]), the Facebook message being followed by comments such as: "these Hungarians are acting up in our country", "let them go back to their origins, ignorants", "these filthy people", "whoever drinks water from Romanian springs is COMPELLED to speak Romanian", "we are fed up with this ethnic group of shit and traitors", "let them respect the country's laws, if not, let them leave", "whoever doesn't like it can leave", "to the steppe!"	race, ethnicity, nationality (Hungarian)	falls within the limits of freedom of expression
568/2021	political statement to get the votes, promising to respect the national, sovereign, independent, unitary and indivisible character of the state, being necessary "to crush the representatives of the DAHR"	race, ethnicity, nationality (Hungarian)	falls within the limits of freedom of expression
569/2021	statements arguing that the DAHR should be banned as an ethnic party	race, ethnicity, nationality (Hungarian)	falls within the limits of freedom of expression
574/2021	statements about Germans ("people who machine-gunned children, locked them in churches and set them on fire")	race, ethnicity, nationality (Hungarian)	acknowledgement, 2,000 lei fine

35. Which means Town House, the traditional name for town halls in Hungarian.

580/2021	remarks about a person's age [36]	age	lack of <i>locus standi</i>
584/2021	the name of a traditional product <i>muschi t*ganesc</i> [g*psy ham]		the act does not constitute discrimination (does not violate the right to dignity)
588/2021	the use of the term "criminal" in relation to the President of Romania	social category (convicted persons)	falls within the limits of freedom of expression
590/2021	the portrayal in a comedy TV show of a scene in which references are made to practices of the Orthodox religion, the Christian believer being a male person cross-dressed as an old woman, wearing shabby and outdated-looking clothes, uneducated, with a low social and intellectual level, and broken language	religion, belief (Christian Orthodox)	lack of jurisdiction, referral to the CNA
592/2021	hate speech against hunters	professional category (hunter)	incomplete petition
606/2021	posting on Facebook: "There are Romanians who on 15 March are in a hurry to congratulate their Hungarian compatriots instead of remembering their own people and going to their graves to commemorate them. There are Romanians who on 15 March, instead of mourning their own people who were massacred in Transylvania, they congratulate those who massacred their ancestors. I am simply ashamed to be part of the same nation as these Romanians", generating comments suggesting that Hungarians should be kicked out of the country, imprisoned, impaled, hanged, etc.	race, ethnicity, nationality (Hungarian)	the article falls within the limits of freedom of expression, the respondent is not responsible for comments that have been deleted
609/2021	use by a journalist of the terms "tanned baboon", "carrion crow", "black parrot", "like a g*psy who has to go to the opera", "ethnic-nosed chaplain", "armed with the DNA of a carousel ticket seller", "croaker", "when he's a black-feathered hen with a dirty vent", "c*loured impostor", "tanned shit fly", "he's been "g*psy-talked"	race, ethnicity, nationality (Roma)	acknowledgement, 2,000 lei fine, order to publish the summary of the decision

36. The Decision does not provide the text.

610/2021	article written about a politician (called a "political animal"), claiming that he has illegally built buildings	political beliefs	falls within the limits of freedom of expression
612/2021	publishing an electoral clip on Facebook showing the candidate entering an office where women, employed at City Hall, are putting make up on, along with the slogan: "Starting today, things are changing"	gender (female)	acknowledgement, warning
619/2021	posting a message on Facebook directed at a female politician from France: "In France she was kidnapped and raped for days, oh wait, that appealed to the white baby girl Guadalupe."	race, ethnicity, nationality (French) + gender (female)	acknowledgement, 3,000 lei fine, order to publish the summary of the decision
620/2021	posting on Facebook of a photo of Prince Philip, with the comment: "You look at this picture and wonder: is it even worth it to reach 100?"	age	lack of <i>locus standi</i>
628/2021	messages sent on Facebook containing the phrases "diabetic fuck", "barren", "you insulin", along with threats	disease	non-incidence, criminal acts
649/2021	the statement "Don't we look like a schizophrenic political class that doesn't pay attention and doesn't understand what citizens care about?"	disability	falls within the limits of freedom of expression, recommendation [37]
659/2021	the statement "Get out of here, you blind, handicapped man"	disability	lack of evidence
665/2021	publishing a text comparing the behaviour of Catholics with that of Orthodox Christians at Easter ("A striking difference between civilized people and the Balkan brouhaha that prevails among the Orthodox. With much regret...")	religion, belief (Christian Orthodox)	falls within the limits of freedom of expression
680/2021	publishing a text against affirmative action targeting Roma: "About racism in Romania. High school with 9 as the minimum entrance grade. But it has two spots that were accessed by students with 6-something and 7-something grades. Those two spots were awarded to one ethnic group. This is racism and it has been practiced in Romania for more than 15 years."	race, ethnicity, nationality (Roma)	acknowledgement, warning
682/2021	ironic text about the Orthodox icons for sale ("We wanted to show who most wants to win tonight, so we took Tata Puiu's secret to the next level and got ourselves 2,358 icons, just to be on the safe side. Go Romania!")	religion, belief (Christian Orthodox)	falls within the limits of freedom of expression

37. Even if discrimination was not found, given the underlying vulnerabilities in Romania, a recommendation was made to avoid such language in the future.

687/2021	publishing a text on Facebook stating that the PNL is dominated by neo-Protestants ("Neo-Protestants have no allies and no measure. Whoever comes to rely on them becomes their prisoner. Their mission is to evangelize society by taking over the parties and government from within", liberals "don't give a damn about liberalism and democracy" they will "surrender to neo-Protestant fanatics in exchange for the illusion of power")	religion, belief (neo-Protestant)	lack of <i>locus standi</i>
690/2021	use of the terms "g*psy", "crow"	race, ethnicity, nationality (Roma)	lack of evidence
691/2021	claiming through Facebook posts that state institutions which respect the linguistic rights of the Hungarian community is slavish behaviour, while simultaneously considering that the Szekler flag "symbolizes the separatist movement of the so-called Szeklerland", which generated comments like: "brainless species", "f*ck the traitors in the mouth", "I invite the traitors to introspectively go back to their mother's", "they should be expelled", "you don't like it here? Get lost! This is Romania", "these are hotblooded mules", "damn boanghina [slur for Hungarian people]", "hurry back and tend to the sheep"	race, ethnicity, nationality (Hungarian)	published texts are within the limits of freedom of expression, comments are discriminatory, warning, recommendation
694/2021	use of the German language in a critique addressed to the President of Romania ("Ruşinos!schamlos")	race, ethnicity, nationality (German)	the act does not constitute discrimination [38]
695/2021	negative statements against women without children, who are considered "heartless, soulless and guided in life by evil"	family situation (woman without child)	acknowledgement, 2,000 lei fine
696/2021	physical aggression and the use of the phrase "g*psy ghetto bitch"	race, ethnicity, nationality (Roma)	non-incidence, criminal acts
697/2021	the statement "out of four little black men only three are left"	race, ethnicity, nationality (person of color)	lack of <i>locus standi</i>
701/2021	ironic text about the Orthodox icons for sale ("We wanted to show who most wants to win tonight, so we took Tata Puiu's secret to the next level and got ourselves 2,358 icons, just to be on the safe side. Go Romania!")	religion, belief (Christian Orthodox)	falls within the limits of freedom of expression

38. According to the reasoning, the statement falls within the limits of freedom of expression.

702/2021	posts with xenophobic content against the Roma ("this one, the gigolo, back in his early days, looked like a little g*psy boy from Izvoare, a bit more put together", "there are enough bimbos willing to put their pretty mouth on the little g*psy boy's fly", "They're a perfect match, the porno g*psy and the big-nosed bloated frog. Both are human scum the likes of which you rarely get to see.")	race, ethnicity, nationality (Roma)	incomplete petition [39]
720/2021	publishing a poem against Ruthenians ("Shame on the people of Bistrita / That they are no longer Ukrainians / But a kind of Ruthenians")	race, ethnicity, nationality (Ruthenian)	falls within the limits of creative freedom
721/2021	misogynistic statements ("I have never talked to women in my life, I don't talk to women. I don't do business if you're a woman, go away, woman, I don't do business with you, I don't talk to them", "I don't even talk to the queen, I, I hang out with princes and kings, not with queens").	gender (female)	acknowledgement, 15,000 lei fine [40]
728/2021	banning the use of the Hungarian language in the polling station ("Romanian is spoken here and if they don't know it, they need to go find a translator")	race, ethnicity, nationality (Hungarian)	the act does not constitute discrimination, no right infringed [41]
729/2021	after the petitioner requested the translation of medical information into Hungarian, he received a humiliating, cynical reply ("we are convinced that the Hungarian minority can be helped in the translation into Hungarian language of pandemic information provided by this council, through local public administration institutions that use the Hungarian language in relation to citizens, through various political parties, associations, foundations, embassies, etc. that use the Hungarian language, as the Romanian state has neither the obligation nor the possibility to undertake such tasks").	race, ethnicity, nationality (Hungarian)	falls within the limits of freedom of expression
732/2021	promoted media commercial containing gender stereotypes	gender (female)	the act does not constitute discrimination
733/2021	racist chants at a football match "Romania is our country and we p*ss on your Hungary. S*ck our d*cks, you <i>Bozgor</i> "	race, ethnicity, nationality (Hungarian)	acknowledgement, warning
745/2021	posting a message in which the respondent states that he has been sanctioned by the NCCD for anti-Hungarian statements which generated messages such as "hyenas and jackals forever hungry", "rags and patched quilt faces"	race, ethnicity, nationality (Hungarian)	falls within the limits of freedom of expression

39. The defendant could not be identified.

40. The relatively large fine is due to the fact that the defendant has been fined repeatedly for similar allegations.

41. The case was not examined from the perspective of the right to dignity, but from the perspective of linguistic rights, however, in the NCCD statistics the case appears in the area of the right to personal dignity.

748/2021	posting a threatening message on Facebook ("if the Szeklers don't settle down, then they may find Romanians coming for them from across the Carpathians")	race, ethnicity, nationality (Hungarian)	criminal facts, the file shall be sent to the Public Prosecutor's Office to the Covasna Court
762/2021	xenophobic-nationalist chants at a football match ("Leave, leave, Hungarians leave our country!", "filthy Bozgors")	race, ethnicity, nationality (Hungarian)	lack of <i>locus standi</i> [42]
767/2021	racist statements ("crows, get to work, crows because of you the country is in ruins")	race, ethnicity, nationality (Roma)	incomplete petition
776/2021	insulting a person who addressed a gas station employee in Hungarian	race, ethnicity, nationality (Hungarian)	lack of evidence
782/2021	statements made during a comedy TV show (in a discussion with an "old woman", the village priest having left the village, she was asked what she would be doing on New Year's Eve and she replied: "Well, the priest left everything here. So, we have some holy water in case some chick gets drunk and we need to sprinkle some on her, we have communion to treat ourselves, we took some holy bread, as a starter, Lenuța brought it... she brought a Koliva cake, you know, it's to die for. I said I'd pay the band to play, but I'm waiting for some teachers from my neighborhood. God, you know how those guys perform live? I'm so glad these morons are gonna spend their whole retirement pay on dedications. Cheers to you.")	religion, belief (Christian Orthodox)	lack of jurisdiction, the CNA may sanction the TV station
783/2021	insults, threats [43]		lack of jurisdiction, the acts fall under the provisions of Law no. 61/1991 on sanctioning the acts of violation of the rules of social coexistence, public order, peace and quiet
784/2021	insults (by using the terms "bastard", "thief", "g*psy from Oltenia")	race, ethnicity, nationality (Roma)	lack of evidence

42. The plaintiff wrongly indicated the sports club.

43. The Decision does not render the defendant's alleged statements.

789/2021	publishing an article claiming that the petitioner had blocked a street, mentioning his name, nationality and a picture of his car registration number ("a foreign citizen blocked a public road [...] it's an Egyptian citizen"); Messages such as "why didn't you bust his face, he can act like a fool back in Egypt here he should keep his mouth shut", "In a few generations, our children's children will be slaves in their own country. In fact I think we already are" were posted, but have been deleted	citizenship (Egyptian)	the article is within the limits of freedom of expression, for deleted comments the complainant is not responsible
796/2021	pejorative use of the term "autistic"	disability	acknowledgement, warning
797/2021	posting a message on Facebook, after the previous account was deleted due to anti-Magyar rhetoric, in which the defendant presents himself as a victim of censorship, stating the following: "The bond of Love of Country and Nation between Romanians is indestructible. The bond is in that ethnic particle that God planted in our DNA asRomanians", "I will therefore continue to instigate Freedom, declaring myself against any dictatorship, including that of minorities", the defendant also posted a photo of Corneliu Zelea Codreanu; comments call Hungarians "genetic waste", "g*psies", "scum", the Szekler flag "rag", the Hungarian flag as stolen from the Italians		lack of jurisdiction, facts of a criminal nature, sending a copy of the file to the Public Prosecutor's Office to the Covasna Covasna Court
802/2021	the use of the term "g*psy" in a pejorative context ("The g*psy wanted to eat with me, I said come on let's give him an interview, I didn't know the g*psy was that ugly", "when I eatl sit at the table with beautiful people, you are too ugly of a g*psy")	race, ethnicity, nationality (Roma)	acknowledgement, 5,000 lei fine
807/2021	disclosure of a person's HIV infection status to all employees of a company	HIV infection	acknowledgement, 3,000 lei fine
808/2021	Posting, after local elections, on Facebook, the message "Attila the Hun's descendants have taken over the whole Satu Mare County", "The invaders always take everything! Either by force, which is not the case here, or by the passivity of the inhabitants of the country being invaded, in our case Satu-Mare, or by treachery at the highest level", "an organized criminal group, called DAHR Satu Mare" "suffocates and oppresses the whole county", "your place is in the trash can of history", "go to jail"	race, ethnicity, nationality (Hungarian)	acknowledgement, warning

810/2021	statement against a "neo-Marxist" bill that "aggressively promotes distorted sex education with an emphasis on contraceptive methods, especially birth control", while "promoting artificial insemination", "financing and supporting purely artificial single-parent families"	illness (infertility)	the statements fall within the limits of freedom of expression
812/2021	the statement made on a TV channel: "well, I appreciated him, I thought he was articulated for a g*psy, but (...) I would be very curious if we, the press, did an audit of how much money some NGOs received to help the Romanian state reintegrate, either through professional retraining or by forcing the state to keep our g*psy minority in school, how much money did the NGOs receive and with what result".	race, ethnicity, nationality (Roma)	the act does not constitute discrimination [44]
813/2021	posting a news story on Facebook with the following text: "Revolted! An HIV-positive scumbag scratched a police officer on duty Sunday night! The attacker told the officer of the law that he wanted to give him the disease too. Now comes the shocking part! Prosecutors investigating the case have decided that the AIDS psychopath cannot be placed in custody. The reason: he suffers from several chronic illnesses, including diabetes!!!"	HIV infection	lack of <i>locus standi</i>
814/2021	the statement "you're a 75-year-old fart who can barely carry his piss bag"	age + illness	non-incidence [45]
820/2021	statements about Hungarians ("they are socially frustrated, anti-democratic people, "who pretend to be raised in Europe")	race, ethnicity, nationality (Hungarian)	dismissal of a previous decision (acknowledgement, 5,000 lei fine)
836/2021	the statement "the lingo spoken at the event was pro-feminist, pro-transsexual, pro-homosexual and anti-Christianity lingo, in the latter case it came from a bimbo from a website of this sort"	sexual orientation	acknowledgement, warning, recommendation

44. The reasoning is based on freedom of expression.

45. The Decision finds that the statement was made between relatives, within the family, but the positions submitted by the parties are contrary to this finding, as the message was posted on Facebook, without a family connection between the two people.

839/2021	person with ankylosing spondylitis ridiculed on television	Disability	acknowledgement, warning, publication of the summary of the decision, recommendation, non-incidence for the TV service provider [46]
840/2021	ironic text regarding the Orthodox icons available for sale ("We wanted to show who most wants to win tonight, so we took Tata Puiu's secret to the next level and got ourselves 2,358 icons, just to be on the safe side. Go Romania!") [47]	religion, belief (Christian Orthodox)	the acts do not constitute discrimination [48]
850/2021	used phrases like "I'll take you to the midget's street where the g*psies are", "what did the midget say", "let's go to the midget's street", "here are the g*psies", "you should see the midget's street"	race, ethnicity, nationality (Roma) + physical trait (height)	acknowledgement, warning
851/2021	use of the terms "mobster", "gangster" in relation to a PSD politician	political opinion	the article does not exceed the limit of freedom of expression, for racist and xenophobic comments [49] the file is sent to the Public Prosecutor's Office
854/2021	publishing an untrue statement on Facebook about the use of the Hungarian language by the authorities, generating messages such as: "baby steps policy, poisonous and safe", "only in Romanian, yes, you can, we live in Romania! But you can't do it in Hungarian!", "I'm disgusted!", "We have foreigners in charge", "Are Hungarians in their right mind... or not?"	race, ethnicity, nationality (Hungarian)	it does not exceed the limit of freedom of expression
857/2021	anti-Semitic slurs	race, ethnicity, nationality (Jewish)	petition withdrawal
861/2021	alluding to the Roma with the text: "The only bird that dares to peck an eagle is the crow. It sits on his back and bites his neck. However, the eagle neither responds nor attacks the crow; he wastes no time or energy on it.	race, ethnicity, nationality (Roma)	petition withdrawal

46. The TV station may be sanctioned by the CNA.

47. Subject matter identical to that of the cases concluded by Decision No 682/2021 and Decision No 701/2021.

48. The reasoning refers to freedom of expression.

49. These comments are not disclosed in the Decision.

	It simply spreads its wings and begins to soar higher into the sky. The higher it goes, the harder it is for the crow to breathe and it falls down from lack of oxygen. Stop wasting time on the crows!!! Lead them to your peak and they will disappear", "Source: The same is true for humans"		
866/2021	posting comments on Facebook, claiming the complainant to be a g*psy, illiterate, calling her husband a "roaming chicken thief"	race, ethnicity, nationality (Roma)	acknowledgement, 1,000 lei fine
878/2021	remarks about the Roma ("parasite-ridden crow"), threats	race, ethnicity, nationality (Roma)	lack of subject-matter jurisdiction, criminal acts
880/2021	statements made at a TV station about Roma: "unruly", "not integrated", because of their denomination Romanians are confused with Roma, "it is a democratic rule, in a democracy there is no dictatorship of a minority, there is only a dictatorship of the majority"	race, ethnicity, nationality (Roma)	acknowledgement, 3,000 lei fine
885/2021	ethnic slurs using the term "g*psy"	race, ethnicity, nationality (Roma)	dismissal, incomplete petition (lack of evidence)

Table 24. Analysis of cases resolved by the NCCD in 2021 that related to discriminatory speech [50]

The following information was communicated by NCCD letter no. 8011/08.11.2022:

Total no. of harassment findings	33
Total no. of decisions establishing the violation of the right to dignity	72
No. of decisions not finding harassment or violation of the right to dignity	91
Finding a lack of jurisdiction, the acts being of criminal nature	22
Finding no violation of O.G. No 137/2000, the acts being of criminal nature	10
Referred to the criminal investigation authorities	9

Table 25. Additional data on NCCD decisions for the period 01.01.2021 - 30.06.2022

50. According to the 2021 sanctioning decisions of the National Audiovisual Council www.cna.ro/-Decizii-de-sanctionare-2021-.html.

A total of 20 decisions of the NCCD in the period under review were challenged in court, of which:

- 16 in the lower courts;
- two were upheld (Decision no. 360/14.04.2021 by Civil Sentence no. 102/26.05.2022 of the Constanta Court of Appeal and Decision no. 602/28.07.2021 by Civil Sentence no. 1080/10.06.2022 of the Bucharest Court of Appeal), for the time being without communication of the sentences;
- one (Decision no. 321/24.03.2021) maintained by Civil Sentence no. 1599/08.11.2021, currently at the appeal stage, before the POHCCJ, in the screening procedure;
- one (Decision No 401/12.05.2021) was annulled by Civil Sentence No 56/04.04.2022 of the Constanța Court of Appeal (case currently under appeal, pending before the POHCCJ, in the screening procedure).

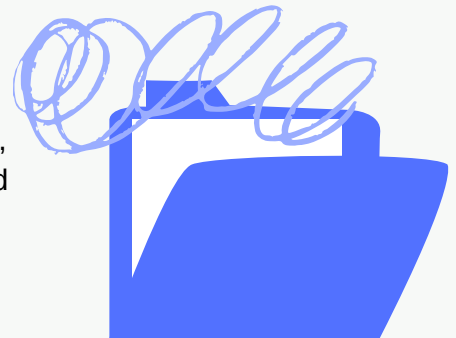
Concerning the cases settled by the NCCD in accordance with the provisions of Law No 202/2002, namely in the field of TV broadcasting, it only stated only that "in the analysis of these petitions, Law No 202/2002 is also taken into account, but the NCCD does not have exclusive competence" [51].

Although the courts are required to notify the NCCD of decisions in cases involving discrimination, the NCCD has not notified the CLR of court decisions in cases involving hate speech, on the grounds that "the NCCD does not have final court decisions on its own decisions mentioned above, which could be communicated ex gratia (the court rulings do not represent information of public interest resulting from the work of the NCCD, and it is obvious that the issuing and communication to the addressees and third parties of the court rulings is related to the idea of information concerning the work of the courts, but not of the NCCD)."

51. Law No 202/2002 stipulates the exclusive competence of the NCCD regarding violations of Article 6 para. 1, 2, 3, and 4, as well as Articles 14-22.

II.1.6. Information collected by the National Institute for the Study of the Holocaust in Romania "Elie Wiesel"

INSHR-EW was established by Government Decision No 902/2005 as a public institution with legal status, coordinated by the Prime Minister through the Prime Minister's Office. Its activities include identifying, collecting, archiving, researching, publishing documents and addressing scientific questions related to the Holocaust, developing and implementing educational and cultural programmes on this historical topic.



The Monitoring Report on Antisemitism in Romania: May 2021- April 2022, entitled *Antisemitism in pandemic times* [52], presents a number of antisemitic acts, such as:

- acts of vandalism (in Ploiesti the demolition and damage of about 20 graves in the Jewish cemetery in June 2021, with five young people aged 16-24 identified as perpetrators, IPJ Prahova considering that their act is not antisemitic in nature; in Orăștie breaking of synagogue windows, a historical monument, in June 2021, with the alleged perpetrators, minors aged 9-14, identified by the IPJ Hunedoara; in Bistrița vandalizing a monument dedicated to the victims of the Holocaust in Bistrița-Năsăud county in September 2021; in Sighișoara drawing swastikas on the walls of the synagogue, with the police identifying a 15-year-old teenager as the perpetrator; in Făgăraș splashing paint on the synagogue built in 1850, which is being renovated, to be transformed into an international cultural center in January 2022);
- other incidents (in Bucharest, the press showcased the presence of several antisemitic messages spray-painted on buildings, dating back to approximately one year beforehand; also in Bucharest, on March 22nd 2022, a photo of children playing rugby with a swastika drawn on the wall in their background was posted on the Bucharest Sports Club Facebook page; the swastika was erased after newspapers wrote about the incident);
- trivialization of the memory of the Holocaust (in June 2021 journalist Olivia Steer, in the context of public announcements on the introduction of the vaccination certificate, made statements in the public space comparing the Holocaust to the restrictive situation generated by the pandemic, resulting in the journalist being sanctioned by the NCCD; in Bucharest, during a protest held on 3 October 2021, messages comparing the Holocaust to the restrictions imposed by the pandemic were displayed; in November 2021, a parliamentary representative of national minorities - the Association of Italians in Romania - expressed his views in the plenary of parliament likening the measures directed against Jews during the Second World War to the current health restrictions; Radu Moraru, the journalist who owns the television station Nașul TV, posted an anti-Semitic speech on 5 February 2022 on the youtube.com platform, under the title "Europe gives up Covid");

52. According to the 2022 monitoring report of the the National Institute for the Study of the Holocaust in Romania "Elie Wiesel" www.inshr-ew.ro/wp-content/uploads/2020/05/Raport-monitorizare-2022.pdf

- homage to people guilty or convicted of war crimes, Holocaust denial

- only in July 2021, after several years, the Constanta City Council decided to rename the street previously known as "Mareșal Ion Antonescu";
- în the municipality of Cluj-Napoca there has been for more than a decade a street named after Radu Gyr, a legionnaire commander convicted for war crimes in 1945 [53];
- in February 2022, an initiative of the Cluj-Napoca City Hall to name a street after Nicolae Paulescu [54] became public, but the project was abandoned following massive media coverage;
- 21 July 2021, the Romanian Academy and the Bartoc Cultural Foundation organized an event to mark the 100th anniversary of the discovery of insulin, on which occasion they unveiled a bas-relief of Nicolae Paulescu;
- at the central building of the National Library of Romania there is a conference room called Mircea Vulcănescu [55];
- in June 2021, Ion Antonescu was honoured in a church in Vaslui, an event that has been organized regularly since 2018;
- in 2021 a work entitled "History of Physics in Romania" was published under the patronage of the Romanian Academy, including characters such as Hermann Oberth, omitting the fact that he was an SS officer, and after the war he continued his political activity, supporting racist theories, and Gheorghe Manu [56], who "unfortunately" was imprisoned for legionary activity;
- in September 2021, when a project for the rehabilitation of the synagogue in Constanta was proposed, there were vehement reactions of opposition and denial of the Holocaust in

53. At the request of an individual, the Public Prosecutor's Office of Cluj-Napoca opened a criminal case. Initially the case was dismissed, a complaint was filed against the ruling, and on January 4, 2022 the complaint was ultimately dismissed, on the grounds that "the applicant cannot justify a legitimate, real and specific interest in filing a complaint against the decision to dismiss the case on the grounds that he had not suffered physical, moral or material harm as a result of the alleged criminal act". The prosecutor who carried out the investigation stated that "Radu Gyr was rehabilitated in 2012 by the Bucharest Court in respect to the sentences imposed on him between 06.03.1945 and 22.12.1989", although his conviction in June 1945, based on Law 312/1945 for the prosecution and sanctioning of those guilty of the disastrous events or war crimes, is still in force.

54. Paulescu had a programmatic anti-Semitic political and editorial activity, being, among others, co-founder of the National-Christian Defense League party, considered one of the fathers of interwar anti-Semitism in Romania.

55. Mircea Vulcănescu was a member of the Antonescu government from January 1941 to August 1944, occupying the position of undersecretary of state in the Ministry of Finance, for his work in the government he was convicted of war crimes in 1948.

56. Gheorghe Manu had been a member of the Iron Guard since 1937, and in 1943 he became interim leader of the underground Legionaries.

Romania within the working group appointed for the elaboration of the cultural strategy of the municipality of Constanta; in September 2021, in the commune of Durnești in Botoșani county, the local authorities erected a monument in memory of a local interwar figure known for his vigilante actions against local Jewish people;

- on 17 January 2022, the official Facebook page of the Ministry of National Defense posted a message honouring Radu Theodoru [57], withdrawn following a complaint made by INSHR-EW;
- in February 2022, a plaque was unveiled in the premises of the "Dragoș Vodă" National High School in Sighet to pay tribute to the teachers and students of the high school "imprisoned by the communist regime between 1948 and 1964", the list including people who were active members of the Legionary Movement;
- on 27 March 2022, the "I. L. Caragiale" in Bucharest distributed, before the start of a performance, copies of the magazine "Certitudinea", an ultra-nationalist and radical publication which, among other things, systematically publishes anti-Semitic and Holocaust-denying texts);

- anti-Semitic manifestations and trivialisation of the Holocaust in Parliament (in November 2021, in the context of the parliamentary debate on the legislative initiative to introduce in Romanian high schools the discipline "History of the Jewish people. The Holocaust", the AUR party took a highly critical stance towards the project, accompanied by antisemitic outbursts; in early January 2022, the AUR party representatives issued a press release in which they claimed that the history of the Holocaust was a "minor subject");

- distortion of the Holocaust on the occasion of the victims' remembrance day (on 27 January 2022, International Holocaust Remembrance Day, at the Holocaust Victims Memorial in Bucharest, while wreaths were being laid at the Memorial, a group of people started a live broadcast on their Youtube accounts trying to lay a wreath with the message: "The Holocaust, do not forget half of the truth is a lie. Romania saved 400,000 Jews during the Holocaust";

- antisemitism and Holocaust denial in online spaces [58] (websites such as Incorectpolitic.ro or the Ioncoja.ro blog are heavily publishing extremist anti-Semitic articles, inciting hatred, messages building or promoting conspiracy theories against the Romanian people);

57. Radu Theodoru, a retired general, was an anti-Semite and militant Holocaust denier and a founding member of an extremist party.

58. Between May 2021 and April 2022, the main themes used in hate speech discourses were in the light of the vaccination campaign against COVID, when the rise of antisemitism in Romania and the extremist drifts of the AUR political party were reported, at the time when the law on introducing the study of the Holocaust history in schools was issued and at the time of the outbreak of war in Ukraine.

The resolutions given by the courts regarding Holocaust denial have been:

- in February 2021, Vasile Zărnescu was sentenced to 13 months imprisonment with postponement of the sentence; following an appeal against this resolution, the Bucharest Court of Appeal, on 31 March 2022, definitively decided to waive the enforcement of the sentence, the defendant being sanctioned with a warning "in order to remind him not to commit other offences in the future" [59].

The report draws a number of conclusions, including:

- "The way Romanian society reacts to and handles episodes of anti-Semitism, Holocaust denial and more broadly far-right manifestations is undoubtedly much improved compared to the 1990s or early 2000s."

- "Since 2002, starting with the approval of GEO no. 31/2002, Romania has been gradually building its legislative and institutional infrastructure to reject or counter extremist tendencies and at the same time to convey to its citizens that respect for the memory of the victims of the Holocaust, the appreciation and protection of different ethnic or cultural identities are values that the Romanian state assumes and strives to practice at all levels";

- "At the level of local structures, officials, magistrates and other law enforcement bodies there is insufficient knowledge and a lack of awareness of the issue [of antisemitism and Holocaust denial]. This gap between the decision-making structures and the structures on the ground makes it difficult to put into practice the intentions clearly stated and undertaken by the aforementioned";

- "At the level of society, the segment with extremist views, attitudes and behaviours often feels encouraged by the lack of reaction of the competent authorities and, in moments and circumstances favourable to them, they do not hesitate to express themselves and make their prejudices and intolerance heard. Even if such manifestations most often take place in the shadow of the anonymity offered by the online environment, this fact should by no means be ignored".

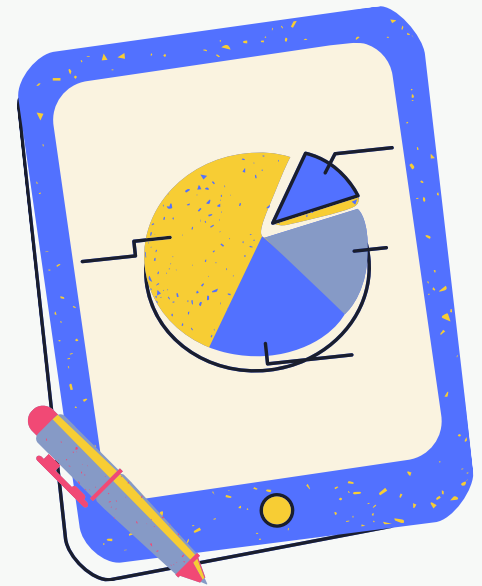
59. Just a few days after the decision, Vasile Zărnescu appeared in a video clip uploaded on youtube.com, in which he presents for about an hour the same Holocaust denial ideas and positions for which he was sentenced, and the person who is beside him during the recording ostentatiously displays a ring with fascist SS symbol.

II. 2. Information collected by international organisations

II.2.1. OSCE-ODIHR

The OSCE, through ODIHR, has been collecting data from 57 countries on hate crimes for 15 years, which is published on <https://hatecrime.osce.org/>.

The official data from Romania shows 10 cases registered with the police, 21 cases under criminal investigation, 50 convictions for 2016; 1 case registered with the police, no cases under criminal investigation, 8 convictions for 2017; 2 cases registered with the police, 2 cases under criminal investigation, 33 convictions for 2018, after which, in subsequent years, no further cases were reported by Romania.



In 2020 a number of 6 cases were unofficially reported:

- 8 Roma men and one boy were handcuffed and beaten by a group of policemen;
- a group of Roma men were surrounded by policemen, forced to get on the ground face down, one of them was beaten and insulted because of his ethnicity;
- two Roma men were beaten by police officers after being reprimanded for a minor offence; one of the victims was handcuffed and beaten with fists and a police baton, then put in a police van and taken to a field outside the town, where the abuse continued;
- the destruction of a memorial dedicated to Holocaust victims;
- a woman in a wheelchair was hit on the head, pulled by her hair, pushed out of her wheelchair and hit again; the victim was admitted to hospital in a serious condition, requiring surgery. [60]

II.2.2. European Court of Human Rights

Romania became a member state of the Council of Europe in 1993 and ratified the European Convention on Human Rights in 1994. According to this convention, when victims of hate crimes and hate speech are not satisfied with the way cases are dealt with or with the decisions of national courts, they can submit an application to the ECtHR.

60. The sixth case, reported by the Kantor Center, is not featured.

The cases that have been heard before the ECtHR are an important source of information on how hate crimes and hate speech should be dealt with, including in Romania, as the case rulings contain a number of generally applicable principles. By knowing these principles, the authorities can provide satisfactory solutions to victims, otherwise victims can obtain remedies through the ECtHR. The case work on Romania has revealed serious systemic flaws, often shortcomings in criminal investigations.



In June 2022, the ECtHR published a Fact Sheet on Hate Speech [61] explaining the notion of hate speech and showing that its use exceeds the limits of freedom of expression. The factsheet includes the case of Association Accept and others v Romania (1 June 2021)

On 20 February 2013, at the Romanian Peasant Museum in Bucharest, "a film screening was violently interrupted by extremist groups who occupied the cinema hall, chanting homophobic slogans, publicly using Legionary and neo-Nazi insignia/ far right paraphernalia and threatening to kill the audience and the organizers. The Court noted that, although a large number of police and gendarmes were present on the scene, well equipped and aware of possible opposition to the event, they did not stop the protesters and remained outside the room where the incident took place while largely refraining from intervening.

As a result, the authorities did not properly assess the risk incurred by the individual applicants at the hands of the intruders and did not respond adequately to protect their dignity from homophobic attacks by third parties. In respect of the obligation to carry out an effective investigation, the Court held the following: [...] the authorities failed to fulfil their affirmative obligation to investigate effectively whether the verbal abuse directed against the individual applicants constituted an offence motivated by homophobia. In this respect, the authorities have shown their own bias towards members of the LGBT community"[62].

The ECtHR updated on 31 August 2022 the "Guide on Article 14 of the European Convention on Human Rights and on Article 1 of Protocol No. 12 to the Convention" ("Prohibition of discrimination") [63], which has a sub-chapter entitled "Discrimination through violence", referring to hate crimes.

61. According to the Hatespeech Factsheet from the European Court of Human Rights
https://www.echr.coe.int/Documents/FS_Hate_speech_ENG.pdf

62. European Institute of Romania: Case-law bulletin of the European Court of Human Rights - judgments and decisions against Romania in 2021 (4 March 2022). Available in Romanian at: http://ier.gov.ro/wp-content/uploads/2022/03/Buletinul-jurisprudentei-CEDO-impotriva-Romaniei-in-2021_final.pdf

63. According to the Guide on Article 14 of the European Convention on Human Rights
https://www.echr.coe.int/Documents/Guide_Art_14_Art_1_Protocol_12_ENG.pdf

The guide shows that in such cases the ECtHR examines procedural issues in addition to the merits of the case. On the merits of the cases, the ECtHR examines whether the conduct of the authorities was due to the fact that the victim belongs to a particular group. The case of *Stoica v Romania* (4 March 2008), concerning a Roma minor assaulted by police officers, was the first case in which the ECtHR found that belonging to a community-led to adverse behaviour.

The ECtHR applied the principle of reversal of the burden of proof; the Romanian State, through its authorities, could not argue that the incident was ethnically neutral. On the procedural aspects, the guide points to the ECtHR's consistency in recognizing the fact that in the case of hate crimes States are under an obligation to analyze such motivation.



The most relevant recent case in the field of hate speech is *Budinova and Chaprazov v. Bulgaria* (16 February 2021). The two applicants, Bulgarian Roma citizens, brought a claim against a politician and journalist, under anti-discrimination law, seeking an order requiring the defendant to publicly apologise for a series of public statements and the issuance of a recommendation for the defendant to refrain from making such statements in the future. The defendant, Volen Siderov, an Ataka MP, promoted the claim that Roma are criminals who endanger the lives of Bulgarians. The Bulgarian courts rejected the claim of the two applicants. The ECtHR points to the following relevant principles:

- for Article 8 of the Convention (right to private life) to be triggered, negative stereotypes against a group must reach a certain level, have an impact on the sense of identity of the ethnic or social group, on the feelings of self-esteem and self-confidence of the members of the group (§61);
- in cases where the allegation is that a public statement made about a social or ethnic group has affected the privacy of its members, within the terms of Article 8 of the Convention, the relevant factors include, but are not necessarily limited to: (a) the characteristics of the group (e.g. the size of the group, its degree of homogeneity, its particular vulnerability or history of stigmatization and its position in regard to society as a whole), (b) the precise content of negative statements about the group (particularly, the extent to which they might convey a negative stereotype about the group as a whole and the specific nature of that stereotype), and (c) the form and context in which the statements were made, their reach (which may depend on where and how they were made), the position and status of their author, and the extent to which they can be considered to have affected an essential aspect of the group's identity and dignity (§63);
- expression on matters of public concern is, in principle, entitled to strong protection under Article 10 of the Convention (freedom of expression), whereas expression which promotes or justifies violence, hatred, xenophobia or other forms of intolerance cannot normally claim protection (§90);

- The ECtHR recognizes the vital role played by the media in a democratic society and has consistently highlighted the importance of freedom of expression for Members of Parliament; at the same time, it has acknowledged that it may be justified to impose even serious criminal sanctions on journalists or politicians in cases of hate speech or incitement to violence; the exercising the freedom of expression, even in Parliament, entails obligations and responsibilities (§90);



In applying the principles, the ECtHR notes:

- the group targeted by the allegations were the Roma in Bulgaria; the ECtHR has long recognized the disadvantaged and vulnerable position of the Roma and the need for special protection for them, thus specifically emphasizing the need to combat the negative stereotyping of the Roma (§64);

- the statements, all of which appear to have been deliberately phrased in instigating language, have visibly sought to portray Roma in Bulgaria as exceptionally prone to crime and depravity; the statements have been systematic and marked by their extreme virulence; although some of the statements referred to specific incidents, the general line of the message, conveyed directly and repeatedly, was essentially that the Roma are immoral social parasites who have abused their rights, live on the backs of the Bulgarian majority, have subjected that majority to systematic, unrestrained violence and crime, and seek to take over the country; there is no doubt that these are extreme negative stereotypes designed to denigrate the Roma in Bulgaria and provoke prejudice and hatred towards them (§65);

- given the numerous channels of communication used and the frequent repetition of the message, it can be accepted that the statements reached a wide audience (§66);

- the person who made the statements was a well-known figure in Bulgarian society and the leader of a rising political party, who shortly after making the statements came second in the presidential elections; the virulent anti-Roma stance seems to have been a core component of his party's political message, the action of the applicants was taken just as his political career was on the rise and the statements were gaining increasing visibility (§67);

- the statements challenged by the applicants were capable of having an impact on the sense of identity of Roma in Bulgaria and on the feeling of self-esteem and self-confidence of individual Roma persons enough to reach a certain level or threshold of seriousness, thus affecting the applicants' private lives (§69);

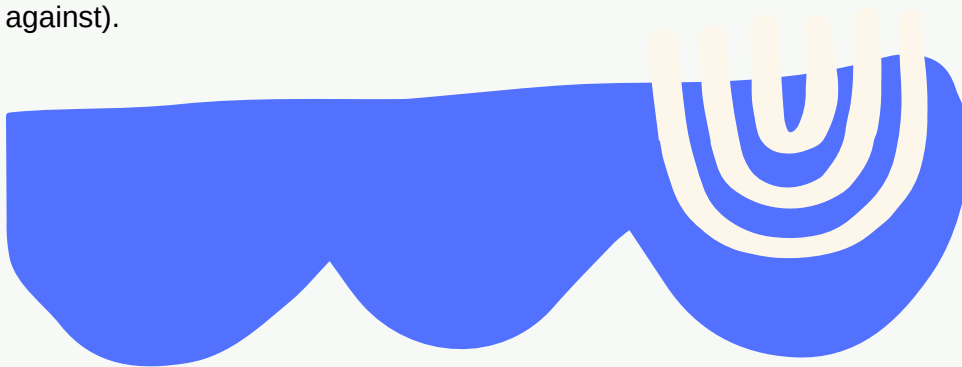
- given the language used and the general direction of the messages, the statements went beyond being a legitimate part of a public debate on ethnic relations and crime in Bulgaria, even acknowledging that they included an element of exaggeration calculated to attract attention (§93);

- how the Bulgarian courts assessed the content of the statements reflected on how they weighed the defendant's right to freedom of expression against the applicants' right to protection of their private lives; although the courts recognized the inherent tension between these two rights, it cannot be said that they weighed their relative importance appropriately in the given circumstances;

the ECtHR has consistently held the view that radical statements which attack or cast in a negative light entire ethnic, religious or other groups do not deserve protection or deserve very limited protection under Article 10 of the Convention, interpreted in the light of Article 17 (abuse of rights); the Bulgarian courts have failed to carry out the required task of weighing the two rights (freedom of expression and the right to private life) in accordance with the criteria laid down in the Court's case-law (§94);

- by the courts' decision, the national authorities failed to comply with their affirmative duty to respond appropriately to discrimination on the basis of the applicants' ethnic background and to ensure respect for the applicants' right to private life (§95).

Consequently, the ECtHR ruled that there had been a violation of Article 8 of the Convention (right to private life) in conjunction with Article 14 of the Convention (right not to be discriminated against).

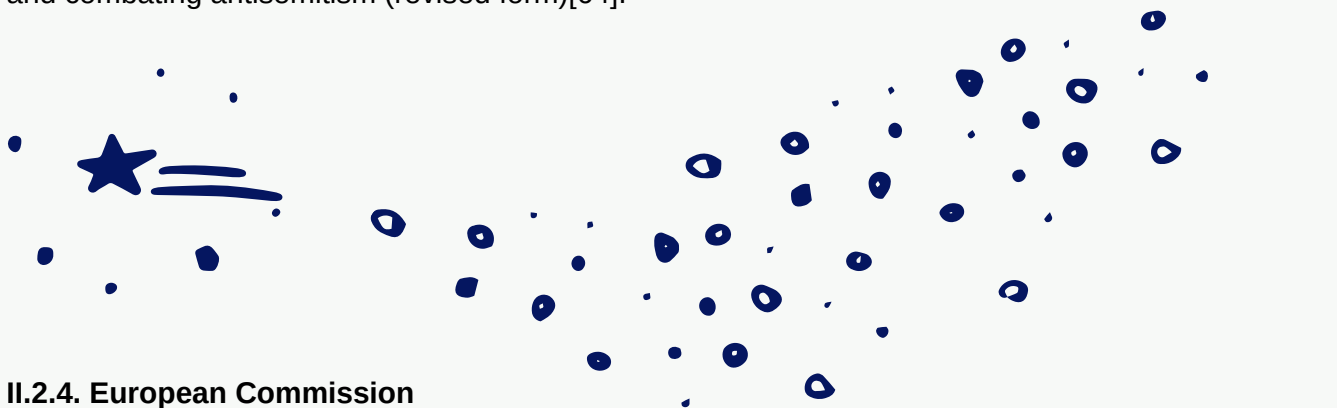


II.2.3. European Commission against Racism and Intolerance of the Council of Europe (ECRI)

ECRI, established in 1994, is an institution within the Council of Europe that aims to help combat racism, xenophobia, anti-Semitism, and intolerance. Part of ECRI's work consists of analysing the situation in each Council of Europe member country and making practical and tangible proposals to governments. Following the publication of the most recent report on Romania (5 June 2019), ECRI's conclusions on the implementation of the report's recommendations were published on 3 March 2022. These conclusions show the following:

- there are no significant changes regarding data collection in the area of hate crimes, data are collected separately by the police, the General Prosecutor's Office and the Ministry of Justice (recommendation not implemented);
- there have been trainings for police officers, prosecutors and judges (recommendation implemented);
- no procedures have been developed to identify discriminatory motives for offences, the working group set up to develop procedures has not been operational since 2017 (recommendation not implemented);
- the Romanian authorities have not provided information on cooperation between the police and vulnerable groups, in particular Roma and the LGBT community (recommendation not monitored);
- little action has been taken to address the problem of under-reporting (recommendation partially implemented).

On 14 September 2021, ECRI launched General Policy Recommendation No. 9 on preventing and combating antisemitism (revised form)[64].



II.2.4. European Commission

On September 27, 2019, the information note on "Assessment of the Code of Conduct on hate speech online" [65] was released. According to the findings, the code covers 96% of the EU market share of online platforms that may be affected by hate speech content, with 72% of hate speech posts removed.

Facebook employs around 15,000 people to check the content of posts, Google and YouTube more than 10,000. IT companies are able to check 89% of reported posts in less than 24 hours. Twitter works with 73 organisations considered to be trusted flaggers, YouTube with 46, and Facebook with 51.

64. According to ECRI General Policy Recommendation No. 9. on preventing and combating Antisemitism (2021), <https://edoc.coe.int/en/racism/10309-ecri-general-policy-recommendation-no-9-revised-on-preventing-and-combating-antisemitism.html>

65. Available at: https://ec.europa.eu/info/sites/default/files/aid_development_cooperation_fundamental_rights/assessment_of_the_code_of_conduct_on_hate_speech_on_line_-_state_of_play__0.pdf

Software that automatically removes hate speech has been developed. In the first three months of 2019, Facebook removed 4 million such messages.

In June 2020, the fifth evaluation report of the Code of Conduct on hate speech online [66] was released, showing that 90,4% of reports are evaluated in less than 24 hours, 4,9% in less than 48 hours, 4,3% in less than a week, and 0,4% take longer.

Of all reported posts, 71% were deleted (Facebook deleted 87,6% of reported posts, YouTube 79,7%, Twitter 35,9%). 475 cases were sent to the authorities (police, prosecutor's office, etc.) for competent resolution. Most messages concerned sexual orientation (33,1%), foreigners and immigrants (15%), Roma (9,9%), Muslims (9,4%) and Jewish people (7,1%). The Romanian organisation participating in the monitoring was Active Watch, reporting 86 cases.

"The EU strategy on victims' rights (2020-2025)" [67], prepared by the European Commission and communicated on 24 June 2020, notes: "Despite the efforts of EU Member States, hate crimes are on the rise in the EU. There is a growing concern that civil society organisations, activists, and politicians are becoming targets of hate crimes. It is essential to support victims of hate crimes in order to create favourable conditions for the assertion and strengthening of democratic discourse. Hate crimes also have a disproportionate impact on certain communities, such as Jews, Roma, Muslims, people of African origin, migrants and the LGBTI+ community, in particular people who are targeted by such attacks for a number of reasons."

The strategy states, inter alia:

- "effectively communicating with victims and creating a safe environment for them to report crime", also referring to "victims of crime from disadvantaged or vulnerable communities or minorities" who "may have a low level of trust in public authorities, which prevents them from reporting crime", it is "essential to increase the level of trust in public authorities, for example by strengthening cooperation between the competent authorities and the affected communities", while "providing specific training on non-discrimination for police staff and others who come into contact with these victims";
- launching an EU campaign on victims' rights which "will promote the provision of specialized assistance and protection to victims with specific needs, such as victims of gender-based and domestic violence and victims of hate crimes", while "particular attention will be given to vulnerable groups and marginalized or isolated communities [...] who have limited access to justice and assistance";

66. Available at: https://ec.europa.eu/info/sites/default/files/codeofconduct_2020_factsheet_12.pdf

67. Available at:

https://ec.europa.eu/info/sites/default/files/a_union_of_equality_eu_action_plan_against_racism_2020_-2025_ro.pdf

- The Commission against Racism and Xenophobia "will continue to implement the recently adopted guiding principles on ensuring access to justice, protection and assistance for victims of hate crimes and hate speech" and "will continue to support Member States in the process of developing national strategies to fight anti-Semitism in order to strengthen the capacity to act of victims of anti-Semitic hate crimes and in order to protect them";

- The Commission will promote "the provision of targeted and integrated assistance to victims of hate crimes, including through close cooperation with all affected communities" and the provision of "assistance and protection to victims belonging to ethnic groups and minorities who are particularly at risk of becoming victims of crime and/or who are in need of special assistance and protection".



„EU anti-racism action plan 2020-2025“[68], prepared by the European Commission and communicated on 18 September 2020, sets out the following relevant aspects:

- **in the legislative field:** "The Commission will carry out a comprehensive evaluation of the existing legal framework to identify ways to improve its implementation and to assess whether it is still fit for the purpose and whether there are any gaps that need to be closed";

"The Commission will report on the application of the [Racial Equality Directive] and will propose any further necessary legal acts by 2022";

"The role and independence of bodies promoting equality and the potential need for further legislation to strengthen the role of these bodies will be an important theme of the report";

"The Commission will make extensive efforts to ensure full and correct incorporation and implementation of the [Framework Decision on combating racism and xenophobia by means of criminal law] throughout the EU, in particular where the definition of hate speech or the criminalisation of hate crimes is not correctly transposed into national law, and, if necessary, launch infringement procedures [69]";

the "Digital Services Act is to be drafted, which will enhance and align the responsibilities of online platforms and information service providers and strengthen EU oversight of platforms' content related policies".

68. Available at:

https://ec.europa.eu/info/sites/default/files/a_union_of_equality_eu_action_plan_against_racism_2020_-2025_ro.pdf

69. On 30 October 2020, the European Commission opened infringement proceedings against Estonia and Romania for failure to correctly and fully transpose this Framework Decision into national law.

- **in law enforcement**: "through the High Level Group on Combating Racism, Xenophobia and Other Forms of Intolerance, the Commission will support Member States to prevent discriminatory attitudes in law enforcement, to develop the necessary powers to investigate and prosecute hate crimes and to ensure that victims are treated fairly and appropriately";

"The existing working group on recording, data collection and encouraging reporting of hate crimes will develop key guiding principles on how to encourage victims to report hate crimes and the FRA will publish in 2021 a report on encouraging reporting of hate crimes";

"The Commission will collaborate with Member States to establish a better common understanding on how to tackle violent extremist groups. This collaboration includes mapping national responses to violent extremism".

- **in the field of education**: 'The Commission will present in 2021 a comprehensive strategy on the rights of the child, which will include actions to combat racism and discrimination'; 'the EU radicalization awareness network will support the efforts of teachers, youth workers and the wider community of all ages to address in classrooms polarizing debates and stigmatizing discourses'.

- **in the field of change-oriented public policies**: combating prejudice and stereotypes by acknowledging the historical roots of racism;

"the Commission will develop a series of seminars on ethnic and racial stereotypes, involving journalists, civil society organisations and representatives of people of racial or ethnic minority origin" to "promote balanced and positive reporting, raise awareness and knowledge among journalists and promote media education";

"the work of the European Digital Media Observatory supporting fact-checkers and researchers in combating misinformation will focus specifically on misinformation and conspiracies targeting minority communities";

"Member States should move towards collecting data disaggregated by racial or ethnic origin of the victim to reflect both subjective experiences of discrimination and victimisation and structural aspects of racism and discrimination";

"the Commission encourages all Member States to develop and adopt national action plans against racism and racial discrimination".

The "EU Strategic Framework on Roma, 2020-2030"[70], developed by the European Commission and released on 7 October 2020, has as its primary objective to prevent and combat antigypsyism and discrimination.

For national strategies, it proposes measures to address antigypsyism and discrimination (e.g. through national strategies to combat racism). During the period covered by the strategy, the Commission will run, in partnership with UNESCO, campaigns to tackle misinformation, hate speech, and conspiracy theories, including those involving Roma communities.

The "LGBTIQ Equality Strategy 2020-2025" [71], drafted by the European Commission and released on 12 November 2020, has a chapter on ensuring safety for LGBTIQ people, which includes measures on:

- enhancing the legal protection of LGBTIQ people against hate, crime, hate speech and violence;
- strengthening measures to combat online incitement to hate speech against LGBTIQ people and related misinformation;
- reporting hate crimes targeting LGBTIQ people and sharing best practices.

70. Available at: https://ec.europa.eu/info/sites/default/files/eu_roma_strategic_framework_for_equality_inclusion_and_participation_for_2020_-_2030_0.pdf

71. Available at: https://ec.europa.eu/info/sites/default/files/lgbtiq_strategy_2020-2025_en.pdf

II.2.5. European Union Agency for Fundamental Rights (FRA)

FRA, established in 2007, based in Vienna, provides independent and evidence-based advice to the Union and national authorities, in particular in the areas of discrimination, access to justice, racism and xenophobia, data protection, victims' rights, children's rights.

The "Fundamental Rights Report 2021" [72], on discrimination, hate speech and racism, noting that the pandemic has provided an opportunity to escalate the phenomenon, formulated Opinion 1.4: "The EU and its Member States should continue the fight against discrimination, hate speech and racism against ethnic minority groups, migrants and refugees or people with a migrant family background arising from the COVID-19 pandemic. This includes enhancing the measures against disinformation that spreads hate speech and discriminatory or racist perceptions, especially online."

Elderly people are a vulnerable group, "stereotypes and discriminatory discourse targeting seniors, age-based restrictive measures, difficulties in accessing goods and services, including as a result of the intergenerational digital gap, and feelings of isolation and distress have undermined their right to a dignified, independent and participatory life, a right enshrined in the Charter of Fundamental Rights of the European Union. The same factors have also undermined their right to equal treatment and equal opportunities, enshrined in the Charter and the European Pillar of Social Rights." FRA Opinion 3.2. states: 'The EU institutions and Member States should adopt and integrate a rights-based approach to ageing and elderly people, including in the development of strategies to overcome the pandemic. This approach should be reflected in all relevant initiatives and policies, including actions to implement the European Pillar of Social Rights and to promote social inclusion policies. This implies:

- combating inaccurate perceptions of ageing people, which lead to age discrimination, creating obstacles to the equal treatment of seniors and preventing them from fully enjoying all their fundamental rights; [...]"

The FRA survey and polls carried out in several Member States focusing on LGBTI+ people "have shown high levels of discrimination and harassment against LGBTI+ people across the entire European Union, as well as a notable decline in their acceptance by society. The hatred expressed against LGBTI+ people in public discourse is a particularly worrying phenomenon as it incites to further discrimination." Measures to contain the pandemic have particularly affected young people living with their families who face violence from their family members because of their sexual orientation or gender identity.

72. According to the Fundamental Rights Report 2021 - FRA <https://fra.europa.eu/ro/publication/2021/raportul-privind-drepturile-fundamentale-2021-opiniile-fra>

According to Opinion 3.3: "[...] Member States should consider the available evidence on discrimination, including data from the FRA's second survey among LGBTI people, in order to appropriately identify and close protection gaps. It should also take into account the guidelines set out in the Equality Strategy for LGBTIQ people. As a separate point, measures should be taken to effectively combat incitement to hatred discourse and hate crimes and to counteract the harmful effects of homophobic and transphobic statements made by authorities and public officials."

The report also notes that "the health crisis has increasingly been used as a pretext to target minorities already facing ethnic and racial discrimination, incitement to hatred discourse and hate crimes - for example, migrants, people from migrant families and Roma."

International monitoring bodies have found loopholes in the criminal codes of several Member States in the area of incitement to hatred discourse or the classification of racist or xenophobic motivation as an aggravating circumstance. "Racism and far-right sentiment continued to challenge the entire European Union in 2020. A number of people were killed as a result of extremist and hate-motivated acts, a continuation of the pattern seen in previous years.

National and international human rights bodies have expressed concern about the increasing prevalence of hate speech online, often by political or media personalities and directed against migrants and ethnic minorities."

Opinion polls show that discriminatory views and stereotypes against ethnic minorities and migrants have intensified with the outbreak of the COVID-19 pandemic. According to Opinion 4.1: "Member States should correctly and fully incorporate and apply the Framework Decision on Racism and Xenophobia to criminalize racist and hate crimes and incitement to hatred discourse.

To this end, Member States should take the necessary measures to ensure that racist or xenophobic motivations are recognized as aggravating circumstances or, alternatively, that courts have the option of taking such motivations into account in determining sentences. In addition to fully incorporating and implementing EU legislation to combat hate crimes, Member States should put in place measures to encourage victims and witnesses to speak out and report hate crimes.

At the same time, the capacity of national law enforcement systems to correctly identify and record such crimes should be strengthened." Some EU Member States are not correctly applying the provisions of the Racial Equality Directive (2000/43/EC), "international human rights bodies have expressed concerns about the independence of the bodies promoting equality established by the Racial Equality Directive".

Consequently Opinion 4.2. states: "EU Member States should significantly improve the effectiveness of the measures and institutional arrangements by which they fully and correctly implement the Racial Equality Directive.

In particular, Member States should enhance the independence of bodies promoting equality, ensuring that these bodies have an adequate mandate and resources to enable them to effectively carry out the tasks assigned to them by EU anti-discrimination law."

The European Commission has encouraged all EU Member States to draft and adopt national anti-racism and anti-discrimination action plans by the end of 2022. In 2020, a number of Member States have developed such plans, "but international monitoring bodies have expressed concern about structural weaknesses in these national action plans, saying that these weaknesses could affect their implementation, impact, and monitoring. Some plans fail to tackle racism in all its aspects; many lack precision in defining concrete steps, and there are insufficient means to achieve targets, benchmarks, and indicators to measure progress."

Therefore "EU Member States are encouraged to develop specific national action plans to combat racism, racial discrimination, xenophobia, and related intolerance. The implementation of such plans would provide EU Member States with a concrete framework for fulfilling their obligations under the Racial Equality Directive and the Framework Decision on combating racism and xenophobia. In line with the EU plan to combat racism, EU Member States should explore the possibility of developing national plans in a participatory manner, involving regional and local authorities, equality bodies and civil society. In addition, the impact and effectiveness of actions taken should be evaluated regularly and transparently, by reference to clear targets and performance charts, based on evidence and using performance indicators." (Opinion 4.4).

Looking at the specific situation of Roma people, the report shows that negative attitudes towards them, which are a significant barrier to social inclusion, are deeply rooted in society. The FRA's 2019 survey shows that almost half of EU citizens (46%) would feel uncomfortable having Roma or Traveller neighbours. The pandemic, which has disproportionately affected Roma and Traveller communities, has amplified inequalities and fuelled prejudice and negative attitudes towards Roma. Opinion 5.1. states:

"Building on the lessons learned during the COVID-19 pandemic, EU Member States should aim to integrate the fight against discrimination and negative attitudes towards Roma in all policy areas addressed by national Roma strategies. The strategies should include targeted measures to combat such attitudes and discrimination affecting Roma and Travellers. These measures should be developed and implemented together with Roma communities and their representatives so as to promote positive narratives about Roma and Travellers and to increase people's awareness of their history of discrimination, segregation and persecution."

II.3. Information collected by NGOs in Romania

The report "Human Rights in Romania, 2021" [73], published by the United States Department of State, based on reports from non-governmental organisations, notes the presence of discrimination against Roma, including by police officers, through violent acts. At the same time, it shows that monuments associated with the Hungarian community have been vandalized (e.g. the monument to the martyred Szekelys in Târgu-Mureş). Some anti-Semitic and Holocaust-denying manifestations are presented in the INSHR-EW report.

The report also shows discriminatory and even violent manifestations by police officers towards LGBTQI+ people, showing that these events are not reported, the last criminal complaint being made in 2006, although studies show that 15% of LGBTQI+ people claimed to have been victims of violence on grounds of sexual orientation.

The policy paper "Police violence against Roma communities in Romania"[74] (May, 2021), conducted by UCTRR, describes the following events:

- several police and gendarmerie teams entered the home of T.V., located on Osiris Street, Rahova neighbourhood, Bucharest, where there were several people, including women and children, without warning or notice; three people were knocked to the ground and hit by one of the police officers; as a result of the blows received, T.V. suffered a broken hand; the three victims persons filed a criminal complaint with the Military Prosecutor's Office before the Military Court of Bucharest;
- on 19 April 2020, a large number of police and gendarmes intervened with tear gas at a building in the Rahova neighbourhood of Bucharest, where an Easter party for Orthodox Christians was taking place; the action resulted in conflict between those present in the courtyard and the police; 37 people were detained, including children, and five people were subsequently arrested; I.M., one of the persons detained, together with their minor son, reported that she and others were beaten, verbally abused and humiliated when she arrived at the 19th Police Station; the state of intimidation continued in the following days with the use of an impressive number of law enforcement officers patrolling the neighbourhood, including a MIA helicopter;
- on 18.04. 2020, in a Roma neighbourhood, in the town of Bolintin Vale, Giurgiu County, there was an intervention of the police forces made up of police officers and gendarmes of the special units, who entered several buildings, exercising physical violence on several people, without them having any intention of attacking the police; a video broadcast in the media shows how a

73. According to Romania Human Rights Report 2021 www.state.gov/wp-content/uploads/2022/03/313615_ROMANIA-2021-HUMAN-RIGHTS-REPORT.pdf

74. According to "Police violence against Roma communities in Romania" by the Civic Union of Roma Youth in Romania Policy-police-violence_EN.pdf (uctrr.ro)

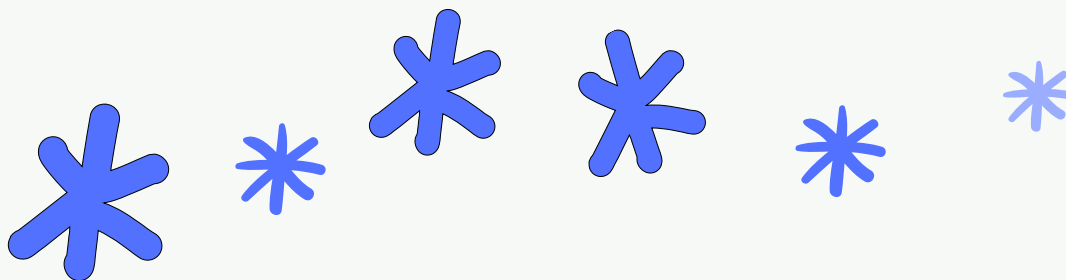
man who was handcuffed and lying face down on the ground was beaten with a baton by the police chief of Bolintin Vale; the victims filed a criminal complaint against the police and gendarmerie officers, and the case file is at the Prosecutor's Office under the Giurgiu Court.

The policy paper recommends "The formation at M.A.I. level of a working group composed of civil society experts dealing with human rights and monitored cases of discrimination and violence against Roma and M.A.I. representatives to review all the provisions governing the research activities of persons on whether the criminal risk has begun and the insertion into their content of provisions concerning respect for against whom criminal proceedings have been initiated and to insert in their content of provisions concerning respect for the dignity of persons, the principle of equal treatment and clear establishment of procedures to follow in such cases".

The causes presented in the previous study are also detailed in the study "The situation of Roma and LGBTI+ Roma discrimination in Romania"[75] (2021) conducted under the coordination of CLR in partnership with UCTRR, MozaiQ LGBT Association and ACTEDO. The study points out that "with the outbreak of the COVID-19 pandemic, we have witnessed an increase of incitement to hatred discourse against the Roma community: the Roma have been portrayed as culprits for the spread of the virus and unwilling to respect the rules imposed by the authorities. A number of reports on mainstream TV and online have been highly racist, linking the uncontrolled spread of the virus to Roma." On Roma discrimination, the study recommends, among other things:

- "There is a need to change anti-discrimination legislation to include tougher sanctions as well as the procedures for detecting and sanctioning discrimination. There is also a need for a broader publicity campaign in mass media as well as on social media on instances where sanctions have been applied in cases of discrimination as well as violations of the Audiovisual Law 504/2002 regarding hate speech."
- "Increase the role of the NCCD and the CNA in preventing acts of discrimination and hate speech; the NCCD should be more active and vocal through media and online campaigns, it should also take a proactive role in educating society on the fight against discrimination; also, the appointment of members of the Board of Directors of both the NCCD and the CNA should be based exclusively on their experience and expertise, not on political criteria";
- "The Romanian state should provide financial support through various mechanisms to Roma organisations in order to provide access to justice for people without financial resources".

75. According to "Exploratory Study. The situation of Roma and LGBTI+ Roma discrimination in Romania" from ACTEDO <https://actedo.org/studiu-exploratoriu-situatia-discriminarii-romilor-si-a-romilor-lgbti-in-romania-2021/>



In the field of Roma LGBTI+ the study notes serious problems in the intersectional analysis of the issue.

Under-reporting of discrimination and hate crimes is due to secondary victimization and insufficient and inadequate remedies. "Interactions with the police are often described by those involved in the project as either traumatic or as experiences that do not lead to solving the problem." In these situations, the support offered to victims by non-governmental organisations is essential.

The study underlines "the need for anti-discrimination training - initial and ongoing - of judicial authorities, police, prosecutors and judges, but also of journalists and media professionals".

The Equality and Human Rights Action Centre (ACTEDO) has released a report entitled "ACTEDO Position Paper and Recommendations to Combat Hate Speech against Roma and LGBT+ People in Romania"[76] (May, 2021), which includes the following cases:

- Traian Băsescu, former President of Romania and Member of the European Parliament, said on 1 May 2020: "This minority has given the Romanian people a deplorable reputation. It is time [...] to drop this phantasmagorical name of Roma". The NCCD imposed a fine of 6,000 lei.
- Nicolae Bacalbaşa, PSD member of the Romanian Parliament, in April 2020 posted the following message on his Facebook page: "Let's be clear!!! The Chinese got the virus from bats, we'll get it from our crows." He later deleted the post and denied the existence of racism in his comments, further explaining that he was just trying to make a joke about bats and crows. The NCCD imposed a fine of 6,000 lei.
- Vladimir Tismaneanu, the political scientist and university professor, posted on his Facebook page a picture of several birds (crows) with the caption: "Țândărei Airport, all flights cancelled"[77]. The professor later apologized and deleted the post, saying he did not realize the discriminatory implications. After the NCCD fined him for discrimination, the decision was overturned by the Bucharest Court of Appeal, explaining that the teacher was not aware of the demographic profile of the community and interpreted the crows as a symbol of people suffering from the incompetence of the local authorities.

76. According to the ACTEDO Position Paper and Recommendations for Combating Hate Speech against Roma and LGBT+ People in Romania https://actedo.org/wp-content/uploads/2021/09/Discursul-urii-romi-si-LGBT_Document-de-pozitie_ACTEDO-2021.pdf

77. Țândărei is a Roma community in Ialomița county, which has no airport and was severely affected by the pandemic at the time of posting.

- A candidate of the USR-PLUS party spoke about the "slave mentality" of the Roma in a public debate on Roma education organized by Digi24.

- In Neamț county, members of a Facebook group and later a group of protesters called for the expulsion and lynching of the local Roma community after a crime committed by a group of Roma. One protester said "We must get rid of such a filthy nation", continuing: "The law enforcement bodies [...] should sort things out over there, not with a stick, not with a gun, not with a fist, with a whip".

- PMP Senator Cristian Vasile Lungu, a theologian by profession, initiated a legislative amendment (adopted) banning any reference to gender identity in formal education, explaining: "this notion that there is a minority of children who feel the opposite of their biological sex is, in my opinion, false", "that minority exists because someone said in the media that it exists, but it does not exist from a legal point of view", "if, for example, my children at school were told every week that, in fact, my little girls or my little boys are not, respectively, little girls and little boys, they would come to home and tell me: Dad, put me in a dress, not in trousers, and the other way around. Imagine what that would mean!".

- During the 2020 election campaign, a video was published showing "alleged USR-PLUS gay volunteers" spreading leaflets. USR claimed that the video was made by PSD to discredit the party. Members of both parties, in their reactions on social media, incited hatred against LGBT+ and promoted stereotype-based associations between one's clothing style, identity and sexual orientation, while suggesting that having volunteers from the LGBT+ community would lead to discrediting a party.

- PSD member Cozmin Gușă claimed in August 2020 during the Bucharest mayoral election that Nicușor Dan is gay and LGBT+ people are not good leaders.

- In an article published in October 2020 on Republica.ro, Cristian Tudor Popescu, a journalist, recalled meeting former US ambassador Michael Guest in the early 2000s, making negative comments about his sexual orientation.

The study "Adapting inclusive policies to address the problems of Romanian Roma and LGBT citizens" (July 2021), conducted by the MozaiQ LGBT Association, draws attention to the increased vulnerability of Roma people belonging to the LGBT community, recommending that the authorities should "actively combat acts of intolerance, hate speech and crimes motivated by racial hatred and/or homophobia/transphobia" and the civil society should get involved in this matter.

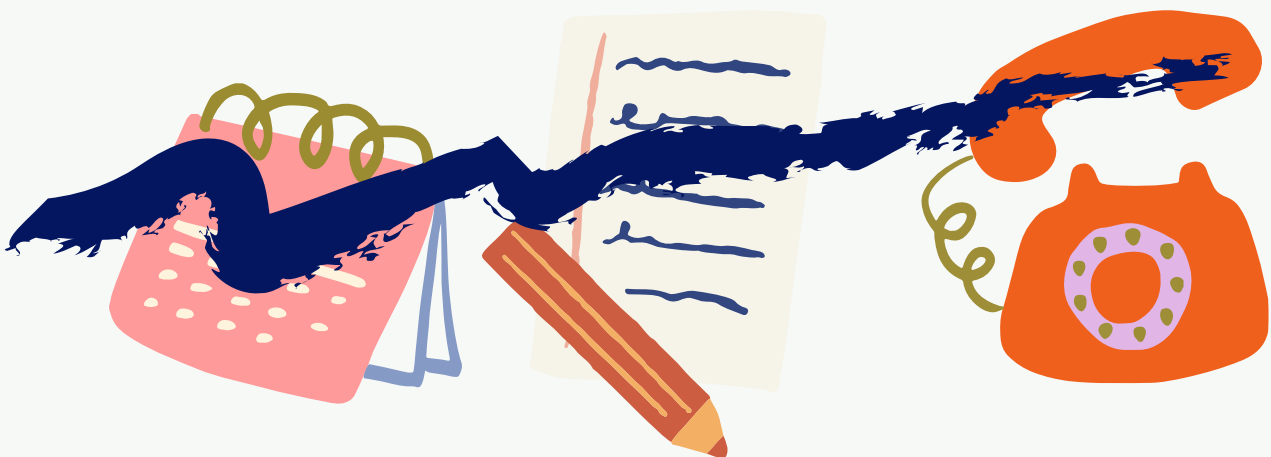
The comparative report on discrimination against Roma women in Romania, Italy and Finland ("IntersectVoices in Europe - combating discrimination against Roma women"[78], March 2021) conducted by E-Romnja (Romania), Romni Onlus (Italy) and Helsinki Deaconess Institute Foundation (Finland) shows that only 10 out of 62 Roma women interviewed, who were victims of crime, reported the incident to the police, two of which were resolved in favor of the victims.

The low number of positive outcomes, fear of the offender, and fear of the police officer are the reasons for the under-reporting of incidents. One Roma woman interviewed, when asked if she would report a crime to the police, said: "God forbid! No! I don't even want to think about it! I went in there to get my ID card and they wouldn't let me keep my hair down, so I can't imagine it would help me in other situations. We are nobody's people in Romania."

Another woman said, "I filed a complaint because I was slapped, insulted, and so on, and at this point, the complaint made is pending. I have some lawyers [from a non-governmental organisation] helping me, otherwise, I wouldn't have been able to afford it. And when you have some lawyers by your side, you know they are there for you, you know they will help you, you have more confidence in yourself."

In conclusion, the study shows that the police have neither the mechanisms nor the will to protect Roma women who have filed criminal complaints, so in some cases the complaints are dropped.

The system is biased, bureaucratic, elitist, and not at all adapted to the needs and problems of the most vulnerable victims, Roma women, with low education, low social status, undocumented residence, or different gender identity.



78. According to the research Challenging intersectionality: Roma women's voices and experiences, <http://e-romnja.ro/wp-content/uploads/2021/04/Research-Intersect-Voices-.pdf>

III. Measures to prevent and combat hate crimes and hate speech

III.1. National Council for Combating Discrimination

According to the Activity Report for the year 2021 [79], the NCCD has developed a series of cross-institutional partnerships with the aim of developing long-term collaborations for informing, educating and raising awareness among different categories of employees in public institutions in order to ensure and respect the right to non-discrimination, as follows:

- partnership with the Special Telecommunications Service, aimed at training STS staff on preventing and combating discrimination against various vulnerable groups in the day-to-day work of this institution;
- the partnership with the Tatar Democratic Union, where NCCD specialists participated in interactive seminars with Romanian students and teachers;



- Framework agreement with the Carol I National Defense University, under which the NCCD ensured the participation of students from the Faculty of Security and Defense in internships within the Legal Directorate;
- Framework agreement with the Dimitrie Cantemir Christian University, which ensured the participation of students from the Faculty of Legal and Administrative Sciences in internships.

In partnership with the Institute for Public Policy, for a period of 24 months, the NCCD is implementing the project ProfsAgainstDiscrimination, funded by the European Commission through the REC-RDIS-DISC-AG-2020 Programme, which calls for:

79. According to the 2021 Activity Report of the National Council for Combating Discrimination, www.cncd.ro/wp-content/uploads/2022/04/Raport-de-activitate-CNCD-2021-.pdf

- Analysis of legislation at a national level in relation to the implementation of the principle of non-discrimination, addressing gaps in legislation and practice through a series of tangible and specific public policy recommendations;
- conducting three nationwide surveys among teachers, parents, and County School Inspectorates on the existence of discrimination;
- raising awareness and capacity to identify, combat and report cases of discrimination in schools at a national level, through training sessions for 200 teachers and the production of a Practical Guide on combating discrimination in the classroom.

The NCCD is a partner of the Anti-Discrimination Coalition of Organisations in the project "Improving Access to Justice for Victims of Discrimination and Hate Crimes" which aims to facilitate access to information and justice for people vulnerable to discrimination. The anti-discrimination coalition will provide legal assistance and legal representation before the courts, but also in relation to political and institutional decision-makers.

The collaboration between the Centre for International Studies and the NCCD has continued with the regular publication in the "New Human Rights Review" of materials on anti-discrimination, promotion of the principle of equal opportunities, NCCD case law, studies, and other relevant articles.

The NCCD was a partner of the One World Romania Festival (14th edition), which aimed to give the public access to quality Romanian and international documentaries, to facilitate debates on human rights in the country, and to encourage the production of new documentary films in this field.

III.2. Alexandru Ioan Cuza Police Academy

The Academy was established in 1991 [80] as a military institution of higher education with academic autonomy, subordinated to the Ministry of Internal Affairs. It has six faculties: the Faculty of Police, the Faculty of Psycho-Sociology, the Faculty of Fire Brigades, the Faculty of Gendarmes, the Faculty of Archives, and the Faculty of Border Guards.

Regarding educating students in the field of hate crimes, the situation is as follows [81]:

- the constituent elements of the offence are studied in the discipline "Criminal Law", and the aspects of prosecution and their trial in the discipline "Criminal Procedural Law", both disciplines being managed by the Department of Public Law;
- for the Masters Degree Programmes managed by the Department of Forensic Science and Criminology in the academic year 2021-2022 and the academic year 2022-2023 ("Management of Information Activities" and "Applied Forensic Research") there was no course or part of a course dedicated to hate crimes;
- for the Undergraduate Degree Programmes carried out at the Faculty of Police, in the academic year 2021-2022, within the curriculum of the disciplines managed by the Department of Forensic Science and Criminalistics there was no course or part of a course dedicated to hate crimes;
- at the level of the Department of Forensic Science and Forensic Science, in the academic year 2022-2023, the following topics [82] were introduced in the curriculum of the courses, which also include aspects related to hate crimes, as follows:

- two topics in the undergraduate programme "Legal Studies", in the discipline "Criminal Investigations" (the topic "Prevention of hate crimes" - 6 hours and the topic "Combating hate crimes" - 4 hours), attended by 248 students in the third year, full-time courses, training being provided by three tenured staff of the Academy, with the support of guests from the Criminal Investigation Department of the GIPR, from 15.05-09.06.2023;
- two topics in the undergraduate program "Public Order and Safety", in the discipline "Criminal Investigations" (the topic "Prevention of hate crimes" - 8 hours and the topic "Combating hate crimes" - 12 hours), with 10 students in the third year, full-time courses, with training provided by three academics from the Academy, with the support of guests from the Criminal Investigation Directorate of the GIPR, from 13.03-14.04.2023.

80. It has been training police officers since 1960, the name of the institution being changed periodically: The MIA School Centre, The MAI Military School for Officers, The MAI Higher Military School for Officers.

81. According to the GIPR - Information and Public Relations Centre letter no. 2.667.597 of 18.10.2022.

82. IGPR is implementing the project "Integrated Action to Combat Hate Crimes, particularly against Roma communities, and to ensure a high standard of quality of police work", funded by the Norwegian Financial Mechanism, in which the Academy is a partner, one of the planned activities being the introduction of discriminatory crimes in the curriculum.

III.3 General Inspectorate of the Romanian Police - Institute for the Research and Prevention of Crimes

Established on June 1, 1998, the Institute for the Research and Prevention of Crimes operates within the General Inspectorate of the Romanian Police, and also has corresponding structures in the territory, at the level of County Police Inspectorates. The Institute analyses the aetiology of crime and its forms of manifestation; carries out periodical studies and reviews on crime trends, and on actions and effectiveness of preventive measures; develops and implements crime prevention programmes/projects/campaigns addressing various types of crime; carries out, in collaboration with the relevant police directorates, governmental institutions and non-governmental organisations, sequential prevention projects on various areas of interest.

The Institute has been running [83], at a national level, since 2017 and until now, with the support of the NCCD, the Project "No discrimination!", whose aim is to increase the level of information, both among police officers and the general public, in the field of prevention of discrimination and hate crimes and the formation of non-discriminatory behaviour.

In 2021, the project carried out:

- training sessions with police officers (in 2021 a total of 242 sessions, attended by over 2,883 beneficiaries, in the first 6 months of 2022 a total of 146 training sessions, attended by over 1,900 beneficiaries);
- preventive and educational activities consisting of: face-to-face/online meetings with pupils/teachers/institutionalized children, participation in various workshops, providing guidance on non-discrimination and hate crimes, disseminating information materials, posting online thematic messages (423 activities in 2021, with approximately 15,903 beneficiaries, of whom: 14,721 pupils, 717 teachers, 465 parents, staff from social centers, etc.; 394 activities in the first 6 months of 2022, with approximately 11,200 beneficiaries, including 4,915 pupils, 256 teachers and other categories: parents, staff from social centers, etc.).



In 2022, a new element brought to the project was a day dedicated to the prevention of discrimination and hate crimes, as part of the annual Crime Prevention Week event. An information session on this topic was held in each county, and in Bucharest, in collaboration with the National Roma Culture Centre "Romano Kher", an interactive activity was held with students from the national colleges "Matei Basarab" and "Mihai Eminescu", on the topics of discrimination, stereotypes, and prejudices against Roma.

83. According to the Police Academy letter no. 4.480.578 dated 19.10.2022.

Also in 2022, during the summer vacation, the National Campaign "Şotron" was carried out with children from the summer workshops organized by the OvidiuRo Association, a campaign aimed at reducing the level of victimization of children, especially those from disadvantaged families and multi-ethnic communities.

During the campaign, 109 activities were conducted, attended by 1,370 children, 265 teachers and 35 parents, where police officers from crime analysis and prevention units discussed the rights and obligations of children, the risk situations in which children may find themselves at different times (at home, at the playground, at school) and also offered recommendations on the prevention of discrimination and hate crimes, and together tried to identify solutions to manage them.

In the following years, the Institute for the Research and Prevention of Crime intends to develop a partnership with civil society in order to identify new opportunities for action in the field of prevention and respect for human rights and to implement annually at a national level a campaign/project in this field.

The activities were carried out by specialists from the Institute for the Research and Prevention of Crime. Depending on the scale of the actions undertaken, various partners from non-governmental organisations, businesses, and civil society have been involved in the actions, providing the necessary financial resources to achieve the intended results.



III.4. Institute for the Study of Public Order

The ISOP was established as the School for Militia Officers in 1949. It is a specialized educational institution within the Ministry of Interior, which provides professional training to the personnel of this ministry.

In the academic year 2021-2022 the following training activities were carried out^[84]:

- career introduction courses (for police officers and agents), covering the topics "General notions of crime" (including hate motives) and "Respect for human rights in police work" (including the topic of discrimination), consisting of five series, each with around 30 participants;
- professional capacity courses, which included a presentation on 'Preventing and combating discrimination', including hate crime, consisting of three series, each with 15-20 participants;

84. According to ISOP letter no. 4386514 of 14.10.2022 sent to the CLR.

- initial training courses for local police officers, with the topics "General notions of crime" and "Respect for human rights in the work of local police officers", consisting of two series, each with 30 participants;
- management courses (for officers in management/executive positions), with the theme "General elements for the prevention of discrimination", consisting of three series, each with 20 participants;
- refresher courses for international missions (for UN and EUPOL monitors), including the themes: "Conduct of international peacekeeping forces", "Respect for human rights and respect for diversity", "Awareness raising on cultural differences", "Preventing and combating sexual abuse and exploitation in post-conflict areas", "Protection of women and children in post-conflict areas", consisting of 4 series, each with 15 participants.

Similar professional training programmes for 500 people are planned for the 2022-2023 school year. Other traineeships are also planned, such as "Prevention and fight against discrimination", and "Prevention of torture and inhuman or degrading treatment/punishment".

ISOP will initiate the development of a training course for staff in operational structures who, by the nature of their work, come into contact with Roma people who are likely to be subjected to acts that would violate their fundamental rights, with the themes: "Roma. A national minority in Romania", "The relationship between Roma and the police: the role of NGOs in combating discrimination", "Stereotypes and prejudices", "Framework law on the prevention and sanctioning of all forms of discrimination. Specialized non-discrimination institutions, legal procedures", "Best practices of police forces in EU countries on diversity management".

III.5. National Institute of Magistracy

The Institute, under the coordination of the Superior Council of the Magistracy, is responsible for the initial and continuous training of magistrates and the training of trainers. In the period 2021-2022 it carried out the following activities related to the field of hate crimes and hate speech^[85]:

- within the initial training programmes, the ECtHR discipline is included (with a seminar dedicated to the principle of non-discrimination in ECtHR practice; the theme is also included in the discussion of other areas such as the right to life, the right not to be tortured, the right to private life, the right to freedom of expression), consisting of 6 lectures and 11 seminars, each activity lasting three hours; within the disciplines dedicated to the socio-human sciences in the first year, for 279 judicial auditors, there is a course entitled "The role of magistrates in the matter of cultural diversity", lasting three hours; in the second year, 210 judicial auditors benefit from a course entitled "Combating discrimination", lasting three hours;

85. According to NIM letter no. 5203 of 14.10.2022 addressed to CLR.

- within the framework of the continuous training programmes, two seminars will be held (in May and October 2022) in the field of anti-discrimination - hate crimes; a seminar on "Incitement to hatred or discrimination" will be held at the Court of Appeal of Brasov (in September 2022); a seminar on "Combating discrimination" will be held at the Prosecutor's Office of the Pitești Court of Appeal (November 2022); in cooperation with the Council of Europe, the HELP Programme and the Spanish Judicial School, an updated HELP course on "Combating racism, xenophobia, homophobia and transphobia" will be launched.

In the next two years of initial training the work will continue along the same lines.

A collaboration with the German Ministry of Justice and the German Foundation for International Legal Cooperation has been established to organize two events related to anti-discrimination with a focus on the investigation of hate crimes and Holocaust denial.

Within the framework of the project "Professional training and capacity building of the judicial system", funded under the Norwegian Financial Mechanism, implemented by the NMI, the following were covered:

- 15 seminars in the field of ECtHR jurisprudence;
- 10 seminars in the field of enforcement of criminal sentences, focusing on specific issues related to the Roma population.

III.6. National Institute for Lawyers' Training

The Institute did not provide the requested information.



Conclusions and recommendations

The legislation is inconsistent in relation to civil sanctions. Some identical acts, but with different definitions in different laws, can be found and sanctioned by several authorities whose work thus overlaps, and the sanctions for these acts are different.

For example, a misogynistic commercial can be sanctioned a) on the basis of Law no. 148/2000 on advertising by the authorised representatives of the local public administration (the amount of the fine for this offence has not been provided for since 2008, following an amendment containing an omission that has not been corrected); b) on the basis of Government Ordinance no. 137/2000 on the prevention and sanctioning of all forms of discrimination by the NCCD (with a fine ranging from 2,000 lei to 100,000 lei); c) on the basis of Law no. 202/2002 on equal opportunities between women and men also by the NCCD (with a fine ranging from 3,000 lei to 100,000 lei); d) on the basis of Audiovisual Law no. 504/2002 by the CNA (with a fine ranging from 5,000 lei to 100,000 lei).

Legislative amendments are frequent, with rewording the definition of certain facts, which in any case does not change their essence, but without any attempt to unify these definitions. For example, sexual harassment has been defined four times in slightly different ways in Law No. 202/2002 on equal opportunities for women and men, but this offence is defined differently in the Labour Code and in Government Ordinance No 137/2000 on preventing and sanctioning all forms of discrimination.

Frequent changes in the criminal law (for example, between 2002 and 2015, four definitions were formulated for the notion of a person guilty of offences against peace and humanity) may have the effect of annulment of previous sentences, given the principle of applying the criminal law of decriminalisation (Article 4 of the Criminal Code). Whenever a definition is changed, the court should re-examine whether or not this change would decriminalize the offence for which a person has been convicted.

During the period under review, there have been changes in the procedures for the statistical processing of hate crimes at the level of the Romanian Police [86] and the prosecutor's offices, but there are still major problems regarding the way in which the personal nature which represents the motivation of the crime is recorded, as well as the fact that said entry differs from one institution to another, thus not allowing for a real statistical analysis of the cases, from the moment the complaint is filed to the moment it is resolved by the court.

86. By Government Decision no. 539 of 13.05.2021 GIPR was appointed coordinator of a working group whose objective is to align a set of statistical indicators on hate crimes at the level of all authorities, the statistical model is still being tested.

The data provided by the Public Ministry show that prosecutors do not understand the essence of the hate crime concept. Thus, when registering cases, in the field that should indicate the grounds of discrimination, very often the act is listed and not the reason (for example, at the PCA Craiova, for the offence of abuse of office on grounds of discrimination (art. 297 paragraph 2 of the Criminal Code) the first half of the year 2022 was listed: "violation of procedural rights, violation of the right to healthcare, failure to comply with mandatory minimum requirements for the ration of food for persons deprived of liberty".

Even if certain grounds for discrimination (the nature, the criteria that motivated the offence) are correctly listed, it is not clear how to differentiate between the notions of race, ethnicity, or nationality.

Often in statistical reports, the number of victims listed as having been discriminated against is zero, but when indicating the reason for discrimination, such grounds are mentioned. In these circumstances, it is not surprising that the grounds for hatred as an aggravating factor of a crime are very rarely analyzed (seven cases solved in 2021, only one case in the first half of 2022), not understanding what a hate crime that avoids such classification means.

Every year, more cases are brought to the prosecutor's offices than the number of cases solved (in 2021, 148 cases were filed based on the provisions of the Criminal Code, while 119 cases were solved during the year), hence these cases keep adding up. Of the 119 cases solved in 2021, 116 ended in dismissal, only three were sent to trial. Only 48 suspects or defendants were identified in the dismissed cases, implying that in the majority of cases the accused persons were not even heard before the case was dismissed.

Although INSHR-EW, a state institute, has reported several acts of anti-Semitism and promotion of persons guilty of genocide, these have remained mostly unsolved. The criminal investigation bodies also tend to dismiss cases when other state institutions make the referral.

The Public Ministry has no data on the convictions ruled by the courts of law, despite the fact that the prosecutors are part of the criminal proceedings as holders of the criminal action, thus able to appeal said courts' decisions.

The Ministry of Justice requested as early as 2016 to modify the ECRIS application that would allow statistical analysis of hate crime data, but to no avail. Statistical data on convictions do not include either the aggravating factor of the hate crime or the underlying motive of, for instance, the crime of incitement to hatred or discrimination.

The CNA decisions are insufficiently motivated, only in a few lines, without analyzing the limits of freedom of expression. In general, the fines imposed are small, given that they apply to commercial entities that own radio and/or television stations.

Although the number of cases in which the CNA has found the promotion of hate speech is extremely small, greater attention has been paid to cases targeting politicians than to cases generally reinforcing negative stereotypes in society.

For example, in the case of "generalizing defamatory statements against women and a sexual minority community" only a notice order was issued, although the discrimination is multiple/intersectional and refers to vulnerable categories in Romanian society; while in the case of remarks related to the fact that a mayor is French, a fine of 60,000 lei was imposed.

There are cases where the NCCD has found discriminatory language promoted by TV channels and sanctioned the individuals involved, but in these cases the CNA did not sanction the TV channels (e.g. NCCD Decision No 880/2021).

Even though the NCCD decisions are substantiated and cite ECtHR principles on the limits of freedom of expression, sometimes the reasoning combines several elements (e.g. lack of responsibility of the defendant, freedom of expression), in the end the decision concludes that the acts do not constitute discrimination, although in other cases similar statements have been sanctioned.

In these circumstances it is not clear what the basis for the decision was. Some rulings use completely erroneous definitions of direct discrimination (e.g. Decision No 490/2021, which defines direct discrimination as "a distinction, based on a criterion, which affects a right, the right must be substantiated" [87]). There are instances where there is no evidence of the allegations under consideration, but the decision concludes that "the constituent elements of a discrimination act are not met", i.e. that "there is no causal link between the alleged criterion (nationality) and the act" (in this case the allegation being: "you Arabs are stupid and should leave town").

Some judgments, passed without examining the merits (dismissal for lack of evidence, admission of exceptions) do not mention the claim that is the subject of the petition. There are cases in which discrimination is found, without the action being examined from the perspective of anti-discrimination legislation, but only from the perspective of freedom of expression, whereas an action that exceeds this freedom cannot necessarily be defined as discrimination.

In many instances, an analysis is made only on the limit of freedom of expression, finding that a statement does not go beyond that limit, but the ruling will say that the act does not constitute discrimination [88]. Although the relevant legislation makes it mandatory to issue a recommendation in addition to an administrative notice, many decisions omit this.

87. The right cannot be substantiated, although the distinction might be, but according to the relevant European Union directives, and Romanian legislation, amended to comply with the directives, do not allow objective reasoning in the analysis of cases of direct discrimination.

88. If a statement is not discriminatory, the analysis of the limit of freedom of expression is totally unnecessary. The analysis should only apply if a statement is essentially discriminatory, but freedom of expression must be protected.

Fines are well below the upper limit stipulated by the law, with warnings being applied when the statements were aimed at vulnerable groups (e.g. children with disabilities), but in the amount of 5,000 lei when the group targeted represents a majority in Romania (Christians, Orthodox Christians). These fines are often not substantiated, even though ECtHR practice makes it very clear that sanctions restricting freedom of expression must be substantiated. Some rulings are contradictory.

For example, in a judgement concerning a statement that a party should be destroyed because its members are "atheists and satanists", it was found that the statement did not go beyond the limit of freedom of expression, even though it generalized a group of people, but on the same day, in another judgement concerning the use of the term "slick money-grubbing PSD member", even though the statement referred to a specific person, discrimination was found and an administrative fine was imposed.

In many instances where it is found that the facts presented in the petition may be of criminal nature, thus the NCCD has no jurisdiction, and the case is not referred to the criminal investigation bodies for resolution, although the law obliges the authorities to make referrals in such cases.

In many cases, the NCCD has admitted the exception of the lack of active legal standing of the petitioners (when, for example, discriminatory statements against LGBTQ+, Roma, etc. are alleged, but the petitioner does not claim to belong to these communities), without exercising its active role permitted by law, by supplementing the petition with a self-report.

The Romanian State has not reported to the OSCE any hate crime statistics since 2019. Although ECRI has recommended since 2005 that the Romanian authorities develop statistical systems in this field [89], on 3 March 2022 ECRI found serious flaws in this area.

A number of training courses are being organized, but their effectiveness is challenged by the extremely poor results obtained in this field (dismissed criminal investigations, criminal trials concluded without prison sentences). Many times training activities or prevention of hate crimes and hate speech are not funded from the state budget but through different projects, often carried out by NGOs.

As the issue of hate crimes is treated superficially by both criminal investigation bodies and the courts, Romania continues to lose cases to the ECtHR (the last one in 2021). Despite international monitoring of Romania, there is no progress in the reported period of time compared to the previous period in regards to the reporting and resolution of hate crimes.

89. ECRI: Third Report on Romania published on 24 June 2005 <https://rm.coe.int/third-report-on-romania-romanian-translation-/16808b5b92>).

Following these conclusions, the CLR makes the following **recommendations**:

- The provisions of the legislation on discrimination should be linked in order to use identical definitions and to clearly separate the powers to set and enforce fines. Hate speech should have a clear definition. The legislation should also address the development of internal procedures on how to determine individual administrative fines.
- In order to respect the principle of legal predictability, there is a need for legislative stability, thus lawmakers should only amend legislation, especially criminal legislation, when there is a real need.
- The Romanian police, the Public Ministry and the Ministry of Justice should correlate the way they record hate crimes in their statistical databases, allowing statistical analysis of cases from the moment a complaint is filed to the moment it is resolved by the court. This statistic should eliminate the possibility of misinterpretation of the personal motive of the offender, while also allowing analysis of offences that are motivated by two or more personal motives.
- Specific procedures should be provided for the timely resolution of hate crimes. These procedures should establish the involvement of institutions such as the NCCD or the INSHR-EW, acting as experts.
- There is a need to train the personnel of the Romanian Police, prosecutors' offices, courts, the CNA, the NCCD, and lawyers on the subject of hate crimes and hate speech. These trainings should not only include legislative provisions, case law of European and national courts in the field, but also raise awareness among the participants to the problems of people belonging to vulnerable groups.
- Regular checks should be carried out within the institutions involved in the field to objectively examine the effectiveness of the law implementation.
- The state should provide material support to non-governmental organisations working in the field of combating hate crimes. ●