

NATIONAL LEGAL MEASURES TO COMBAT RACISM AND INTOLERANCE IN THE MEMBER STATES OF THE COUNCIL OF EUROPE

ROMANIA, Situation as of 1 December 2004

General Overview

Preliminary Note: this table is accompanied by an explanatory note.

COUNTRY: ROMANIA	Constitutional provisions	Specific legislation	Criminal Law	Civil and Administrative Law
Norms concerning discrimination in general	Yes, in particular Articles 4(2) and 16(1)	Yes.	No	Yes.
Norms concerning racism	Yes, in particular Article 30(7)	Yes	Yes, in particular Articles 166, 247, 267(1) and 317 of the Criminal Code.	No
Relevant jurisprudence	Yes	None specifically related cases	None specifically related cases	None specifically related to discrimination on the basis of race or ethnicity.

EXPLANATORY NOTE

ROMANIA / GENERAL OVERVIEW

The Romanian Constitution approved by referendum on 8 December 1991 contains several provisions which explicitly concern discrimination and other forms of intolerance and have a direct bearing on them. The Romanian Constitution was modified in 2003; the amended version was re-published in the Official Gazette no 767 of 31 October 2003. Constitutional norms concerning fundamental rights and

liberties are deemed to be directly applicable and are, as a general observation, frequently referred to during litigation before ordinary courts.

These include not only general clauses on equality such as Article 4 (2) and 16 (1), but also more specific provisions. Article 30 (7) settles the vexed question of limits to freedom of expression by forbidding, among other things, "any instigation to national, racial, class or religious hatred" and "incitement to discrimination". This clause has not yet been fully implemented.

The Criminal Code (adopted in 1969, amended in 1990, 1992 and 1996) renders punishable anyone who issues propaganda for the proclamation of a totalitarian state, including a fascist regime (Art. 166) or, more specifically, anyone who issues nationalistic propaganda or incitements to racial or national hatred (Art. 317, on which there is no case-law¹). Furthermore, Article 247 of the Criminal Code punishes offences committed by civil servants who limit the employment or the exercise of the rights of an individual or who place an individual in a situation of inferiority for reasons of nationality, race, sex or religion. On the other hand, it incorporates no provisions punishing the commission of acts of discrimination or incitement to discrimination by private persons. Recent amendments have not remedied this deficiency.

According to a letter from the Ministry of Justice of 28 September 1994, during the period between 1.1.1990 to 1.9.1994, no-one was brought before the courts for infringements under Articles 166, 247 or 317 of the Criminal Code.

Civil, labour and administrative legislation provides remedies for the violation of constitutional prohibitions of discrimination. Discrimination in relations between private persons, or between public entities and private persons is prohibited by Art. 5 of the Civil Code and Arts. 2 and 18 of the Labour Code, which invalidate any collective labour agreement or employment contract concluded in violation of the constitutional prohibitions of discrimination. Furthermore, Art. 1 of Law No. 29/1991 on administrative litigation entitles any person who is dissatisfied with an administrative act to challenge it in court by indicating the constitutional or legal provision allegedly violated. However, during the period between 1.1.1991 and 1.9.1994, no-one brought a complaint concerning administrative acts which limited their rights as guaranteed by law on the grounds on their racial, ethnic or religious origins or beliefs.

On the other hand, constitutional provisions on national minorities have a direct bearing on the question. It must not be forgotten that in Romania, as in other Eastern European countries, expressions of intolerance and discriminatory acts are often directed at members of minorities, especially the Roma/gypsies, who in 1992 accounted for 1.8% of the Romanian population. The 1991 Constitution secures to persons belonging to national minorities "the right to the preservation, development and expression of one's ethnic, cultural, linguistic and religious identity" (Article 6) and the right to learn and be educated in their mother tongue (Article 32(3)). In order to implement these principles, the Government's Decision No. 17 of 31.01.1997 created a Department for the Protection of National Minorities as an executive body equated to a ministry, under the direction of a minister directly subordinated to the Prime Minister. It maintains, inter alia, a National Office for Social Integration of

Roma and has permanent contacts with the Council for National Minorities, an advisory body to the Government consisting of representatives of all national minorities present in Romania. The Department for the Protection of National Minorities administers all initiatives for minorities, including the payment of State subsidies to members of minorities, and is responsible for drafting the necessary statutes and subsidiary legislation.

Increasing tolerance of minorities allowed the formation, after the 1996 general elections, of a coalition government including the party representing the interests of the Hungarian minority. This also led to important changes in the Law on Local Administration, which was amended by Emergency Ordinance No. 2 of 1997, to allow Romanian citizens whose native language is not Romanian to use their native languages in contacts with the local public administration. The same law permits public signs in minority languages.

In order to defend the rights and freedoms of citizens, the Constitution likewise provides for the institution of a "People's Advocate". This institution was created by the enactment of Law No. 35 of 1997. Senate Decision No. 17 of 1997 appointed the person who holds that office. Rules of procedure for the work of the People's Advocate are currently being drafted.

According to Art. 20 of the Constitution, constitutional provisions concerning the rights and liberties of citizens must be interpreted and applied in conformity with the Universal Declaration of Human Rights and the other international treaties to which Romania is a party. As far as measures against discrimination are concerned, Romania is a party to the United Nations Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965, the United Nations Convention on the Suppression and Punishment of the Crime of Apartheid of 30 November 1973, the UNESCO Convention against Discrimination in Education of 14 December 1960 and the ILO Discrimination (Employment and Occupation) Convention (no. 111) of 25 June 1958, as well as to the European Convention for the Protection of Human Rights and Fundamental Liberties and to the Framework-Convention for the Protection of National Minorities. With Law no.144/1998 Romania withdraw the reserve expressed at the article 22 of the International Convention for the elimination of all forms of racial discrimination and with the Law no.612/2002 Romania recognizes, in accordance with Article 14 of the Convention, the jurisdiction of the Committee for Elimination of Racial Discrimination.

In the last years, Romania made some significant efforts in order to create the legislative framework in the field of preventing and combating discrimination, including the introduction of a comprehensive anti-discrimination law, the development of a strategy to improve the situation of the Roma community, and some measures to address the problem of police misbehaviour towards members of minority groups. The National Council for Combating Discrimination (NCCD), established by Government Decision no. 1194/2001 on the organization and functioning of the National Council for Combating Discrimination, modified by Government Decision no. 1514/2002, is an institution of the central public administration, specialized body on ascertaining and sanctioning the discrimination deeds.

The National Council for Combating Discrimination, the main public authority responsible for preventing and sanctioning discrimination deeds, acts in cooperation with other public institutions having sector attributions in this field: The Ministry of Public Administration and Interior; The Ministry of Labour, Social Solidarity and Family; The Ministry of Education and Research; The Ministry of health; The Ministry of Culture and Cults; The Ministry on Justice; The Ministry of European Integration; The Ministry of Foreign Affairs; The National Audio – Visual Council, The National Agency for Sports; The General Secretariat of the Government. The fields that should be priority protected by law are: the right to personal dignity; free access to education; free access to public services, justice, health, social assistance; free access to goods and services; freedom of movement; free access for housing and accommodation and access to public places; equal rights to economic activities, employment, profession and social security. The primary actions of the National Council for Combating Discrimination in the field of preventing and combating all forms of discrimination are:

- 1) Implementing the principal of equal treatment and equal chances between all citizens, by putting into force the provisions of the Romanian Constitution and ensuring the implementation of the EU Directives 43/2000/CE and 78/2000/CE in the national legislation, having in view the achievement of a sustainable model in the field of equality and security among all citizens.
- 2) Creating the specific legislative framework as the public policies in this area to fulfil the following conditions: to be fully harmonized with the European standards; to be well known and accessible to all citizens; to be tailor-made to the real problems existing in the Romanian society and not to create any confusions; to encourage and facilitate social communication.

The Romanian legislative framework, which is the fundament of the National Action Plan for Combating Discrimination, is represented besides the Romanian Constitution, by the Government Ordinance no. 137/2000 on preventing and sanctioning all forms of discrimination (adopted by the Law no. 48/2002) and the Government Ordinance no. 77/2003 for modifying the Government Ordinance no. 137/2000 (adopted by the Law 27/2004).

According to this ordinance, conditioning the participation of a person in an economic activity or one's free choice and exercise of a profession on one's appurtenance to a race, nationality, ethnic group, religion, social status, on one's beliefs, sex or sexual orientation, respectively, or on one's appurtenance to a disfavoured category shall constitute an offence. Further the following shall constitute offences: discrimination on account of the race, nationality, ethnic group, social status, disfavoured category one belongs to, respectively on account of one's beliefs, sex or sexual orientation in a labour and social protection relation, with respect to:

- a) the conclusion, suspension, modification or conclusion of the labour relation;
- b) the establishment and modification of job-related duties, of the work place or of the wages;
- c) the granting of social rights other than the wages;
- d) the professional training, refreshment, conversion or promotion;
- e) the enforcement of disciplinary measures;

- f) the right to join a trade union and to access to the facilities it ensures;
- g) any other conditions related to the carry out of a job, in accordance with the law in force.

In accordance with the ordinance mentioned above, the refusal of any legal or natural entity to hire a person on account of the applicant's race, nationality, ethnic appurtenance, religion, social status, beliefs, sex or sexual orientation shall constitute an offence. If, in any job advertisement or interview, the employer or employer's representative set conditions related to the appurtenance to a race, nationality, ethnic group, religion, sex or sexual orientation, social status or disfavoured category or the applicant's beliefs for filling in a position, this deed shall constitute an offence. Natural or legal entities involved in mediating and distributing work places shall ensure the equal treatment of all applicants, their free and equal access to opportunities to consult the supply and demand of the labour market, to consulting on opportunities to obtain a job or a qualification, and shall refuse to support the employers' discriminatory requirements. All information related to the race, nationality, ethnic appurtenance, sex or sexual orientation of applicants for a job or any other private information shall be confidential. Discrimination committed by employers against their employees with regard to the social facilities they grant their employees on account of the employees' appurtenance to a race, nationality, mother tongue, ethnic background, religion, sex, social status, sexual orientation or beliefs shall constitute an offence.

Under the ordinance, the refusal to ensure legal and administrative public services to a natural entity, a group of persons or a legal entity, on account of their appurtenance or to the appurtenance of the management to a race, nationality, ethnic group, religion, social category or disfavoured category, on account of their beliefs, sex or sexual orientation, if the deed does not fall under the incidence of criminal law, shall constitute an offence.

Under the ordinance further, denying the access of a person or of a group of persons to public health services (choice of a family doctor, medical assistance, health insurance, first aid and rescue services or other health services) on account of their appurtenance to a race, nationality, ethnic group, religion, social category or to a disfavoured category, on account of their beliefs, sex or sexual orientation, shall constitute an offence as well as the refusal to sell or rent a plot of land or building for housing purposes, to grant a bank credit or to conclude any other kind of contract with a person or group of persons on account of their appurtenance to a race, nationality, ethnic group, social category or to a disfavoured category, on account of their beliefs, sex or sexual orientation Denying the access of a person or group of persons to the services provided by hotels, theatres, cinemas, libraries, shops, restaurants, bars, discotheques or any other service providers, whether they are public or private property, or by public transportation companies (by plane, ship, train, subway, bus, trolley-bus, tram car, taxi or by any other means of transport) on account of their appurtenance to a race, nationality, ethnic group, religion, social category or to a disadvantaged category, on account of their beliefs, sex or sexual orientation, shall according to the ordinance constitute as well an offence. Further the refusal to grant a person certain rights or facilities, on account of their appurtenance to a race, nationality, ethnic group, religion, social category or to a disadvantaged category, on account of their beliefs, sex or sexual orientation shall constitute an offence.

Further, denying the access of a person or of a group of persons to the state-owned or private education system of any kind, degree or level, on account of their appurtenance to a race, nationality, ethnic group, religion, social category or to a disadvantaged category, on account of their beliefs, sex or sexual orientation, shall constitute an offence as well as any restrictions based on appurtenance to a race, nationality, ethnic group, religion, social category or to a disadvantaged category in the establishment and licensing of education institutions set up in accordance with the legal framework in force. Any threats, constraints, use of force or any other means of assimilation, colonisation or forced movement of persons with a view to modify the ethnic, racial or social composition of a region or of a locality shall constitute according to this ordinance an offence.

Further constitute an offence any behaviour consisting in forcing a person belonging to a race, nationality, ethnic group or religion, or a community, respectively, to unwillingly leave their residence, deportation or lowering their living standards with a view to determine them to leave their traditional residence shall constitute an offence. Forcing a group of persons belonging to a national minority to leave the area or regions where they live or a group belonging to the majority population to settle in areas or regions inhabited by a population belonging to national minorities shall both represent violations of the ordinance mentioned above as well as any behaviour aiming to determine a persons or group of persons to move away from a building or neighbourhood or aiming to chase them away on account of their appurtenance to a race, nationality, ethnic group, religion, social category or to a disadvantaged category, on account of their beliefs, sex or sexual orientation.

Under the Government Ordinance no.137/2000 concerning the prevention and punishment of all forms of discrimination, any offending public behaviour, any public behaviour with a nationalistic-chauvinist character, any incitement to racial or national hatred, or any behaviour aiming to prejudice a person's dignity or to create a hostile, degrading, humiliating or offending atmosphere, perpetrated against a person, a group of persons or a community on account of race, nationality, ethnic group, religion, social category or appurtenance to a disadvantaged category, on account of beliefs, sex or sexual orientation shall constitute an offence, unless the deed falls under the incidence of criminal law. In all cases of discrimination provided by the ordinance herein, the persons discriminated against shall be entitled to claim damages, proportionally with the prejudice, as well as to the re-establishment of the situation prior to the discrimination or to the annulment of the situation created by discrimination, in accordance with common law.

Such measures demonstrate an acknowledgement on the part of the authorities that problems of racism and intolerance exist in Romania and need to be addressed. In the same direction is pointing the Government Decision no.1194/2001 for the organisation and operation of the National Council for fight against discrimination, as amended and completed by the Government Decision no. 1514/2002 and by the Government Decision no.1279/2003 for the amendment and completion of the Government Decision no.1194/2001 as well as Government Decisions nos.1456/2002, 433/2003, 1460/2003 and 668/2004 concerning Romania's participation at the Action Program for fight against discrimination (2001-2006).

However, problems persist as regards the lack of implementation of the legislative provisions to combat racism and discrimination, particularly in the field of criminal law, and as regards the climate of opinion in the country, reflected in certain political circles and in the media. They are e.g. reports about the racist atmosphere held by public in the Courtroom, which finally may influence the judges².

Constitutional Law: Romania

Preliminary Note: this table is self-sufficient and is not accompanied by an explanatory note.

Constitutional provision	Scope	Relevant jurisprudence	Remarks
Article 4 (2) (Equality of citizens)	Romania is the common and indivisible country of all of its citizens, without any distinction on account of race, nationality, ethnic origin, language, religion, sex, opinion and political allegiance, wealth or social background.	In particular the following decisions of the Constitutional Court: Nos. 1, 6, and 70 of 1993, 3 of 1994 and 45 of 1995.	The decisions do not refer directly to inequality based on race, nationality, ethnic origin or religion. As a general observation, Art. 4(2) is usually invoked together with Art. 16(1).
Article 6 (Right to identity of persons belonging to minorities)	Right of persons belonging to minorities to preserve, develop and express their ethnic, cultural, linguistic and religious identity. Protective measures must conform to the principles of equality and non-discrimination in relation to the other Romanian citizens.		
Article 16 (1) (Equal rights)	Citizens are equal before the law and public authorities, without privilege or discrimination.	In particular the following decisions of the Constitutional Court: Nos. 4 of 1992, 6, 35, 60, 62 and 70 of 1993 and 72 of 1995	

		concerning the constitutionality of certain provisions of Law No. 84/1995 on education.	
Article 20 (Interpretation of constitutional provisions in conformity with international agreements on human rights)	Constitutional provisions concerning the rights and liberties of citizens must be interpreted and applied in conformity with the Universal Declaration of Human Rights and the pacts and other treaties to which Romania is a party. International regulations have priority in the event of any inconsistencies.	In particular the following decisions of the Constitutional Court on various issues and grounds: Nos. 3, 30, 47, 59, 63, 99, 114 and 139 of 1994 and Nos. 16, 38, 47, 72, 76, 80, 81, 86 and 104 of 1995.	
Article 29 (Freedom of thought, conscience and religion)	Freedom of thought, opinion and religious belief cannot be curtailed in any way. Freedom of conscience is guaranteed, but it must be exercised in a spirit of tolerance and mutual respect. Religious denominations are free. All forms, means or acts of religious hate-mongering are prohibited in relations among them.	In particular decision No. 23 of 1993 of the Constitutional Court.	This decision addresses the freedom of religion in the context of real estate litigation between the Greek-Catholic and Greek-Orthodox Churches.
Article 30 (7) (Limits to freedom of expression)	Instigation to national, racial, class or religious hatred is prohibited		

	by law, as is incitement to discrimination, territorial separatism or public violence.	
Article 32 (3) (Right of persons belonging to national minorities to education)	The rights of persons belonging to national minorities to learn and be educated in their native languages are guaranteed. The means of exercising these rights are regulated by law.	Constitutional Court decision No. 72 of 1995 concerning the constitutionality of certain provisions of Law No. 84/1995 on education.
Article 44 (4)	Shall be forbidden the nationalization as well as any other measures of forced transfer in the public ownership on grounds of social status, ethnical origin, religious beliefs, political orientation of the owner or on any other grounds of discriminatory nature.	
Articles 58-60 (People's Advocate)	The People's Advocate is appointed by the Senate for 4 years to defend citizens' rights and freedoms. He exercises his functions ex officio or at the request of persons whose rights and freedoms have been infringed. The organisation and methods of procedure of this organ are determined in an	

institutional act.

Criminal Law: Romania

Preliminary Note: this table is self-sufficient and is not accompanied by an explanatory note.

Offence	Source	Scope	Sanction	Relevant jurisprudence	Remarks
Propaganda in favour of totalitarian state	Article 166 of the Criminal Code (as republished and subsequently amended since 1996).	Systematic dissemination, by any means whatsoever, of ideas, conceptions or doctrines advocating the creation of a totalitarian state, including incitement to murder people considered to belong to an inferior race.	Imprisonment from 6 month up to 5 years and disqualification from the exercise of certain rights.	No.	The term "totalitarian" includes fascist and communist regimes.
Offence committed by a civil servant	Article 247 of the Criminal Code	Offence committed in the course of duties by a civil servant who restricts employment or the exercise of the rights of an individual or who places an individual in a situation of inferiority for reasons of nationality, race, sex or religion.	Imprisonment from 6 months up to 5 years.		
Torture	Article 267(1)	The causing of pain or severe	Imprisonment from 2 to 7 years		

sufferings, either physical or psychical for any reasons grounded, amongst others, on discrimination if perpetrated by an agent of public authority, at his instigation or with his explicit or implicit consent.

<p>Chauvinistic nationalist propaganda and incitement to racial or national hatred</p>	<p>Article 317 of the Criminal Code</p>		<p>Imprisonment from 6 months up to 5 years.</p>	
<p>Genocide</p>	<p>Article 357 of the Criminal Code.</p>	<p>The commission of specified acts with a view to destroying, wholly or in part, a national, ethnic, racial or religious group.</p>	<p>Imprisonment from 15 up to 25 years and disqualification from the exercise of certain rights. If committed in wartime, imprisonment for life. Conspiracy to commit such a crime is punishable with imprisonment from 5 to 20 years and disqualification from the exercise of certain rights.</p>	<p>Conspiracy to commit genocide is also punishable.</p>

Public incitement to commit criminal offences; defence of persons who have committed offences or of offences themselves	Article 324 of the Criminal Code	Incitement may occur orally, or in writing, or in any other forms. Acts of incitement committed by public servants or public officials are prohibited.	Imprisonment from 3 month up to 3 years for ordinary offenders. Imprisonment from one up to 5 years if the offender is a public servant.	Incitement may also consist of the wearing of a uniform, emblem or other signs.
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Civil and Administrative Law: Romania

Preliminary Note: this table is self-sufficient and is not accompanied by explanatory comments

Provision	Scope	Consequences of breach	Relevant jurisprudence	Remarks
Labour Code (Law No. 10/1972), Arts. 2 & 18	Art. 2 - The right to work is guaranteed to all Romanian citizens according to their attitudes, qualifications and interests and to the needs of society, without discrimination based on sex, ethnic origin, race, religion, political opinions or social status. Art. 18 - The rights of working persons cannot be made the subject of any transaction, waiver or limitation.	Absolute nullity (invalidity) of any arrangement which contravenes these guarantees.		
Law on local elections No 70 of 26 November 1991 Art. 2	Roman citizens without distinction based on nationality, race, language, religion, sex, political convictions or occupation, shall exercise their right to vote equally.			
Law No. 69/1991 on public local	Romanian citizens who belong to any national minority, without			

<p>administration (as amended in 1996 and 1997), Art. 58</p>	<p>distinction based on the region in which they live, have the right, in their relations with public local authorities, to formulate their claims and receive answers in their native languages. In localities where the number of citizens belonging to a national minority exceeds 20% of the population, the local council may decide that all public documents and announcements should be written in that language, in addition to the official language.</p>			
<p>Law No. 68 of 15 July 1992 On elections to the chamber of Deputies and the senate Art. 4</p>	<p>Organisations of citizens belonging to national minorities which participate in the elections shall be treated in law as political parties for the purpose of electoral operations.</p>			
<p>Law No. 70 of 26 November 1991 On local elections, as amended and supplemented by Law No. 25 of 12 April 1996. Art. 2 and 103</p>	<p>Romanian citizens, without distinction based on nationality, race, language, religion, sex, political convictions or occupation, shall exercise their right to vote equally. In accordance with this law, legally constituted organisations of persons belonging to national minorities shall be treated in the same way as political parties and political and electoral alliances.</p>			
<p>Law on political Parties No. 14 of 17 January 2003</p>	<p>Members of organisations of citizens belonging to national minorities which enter</p>			

Art. 8	<p>their candidates in the elections may belong to a political party. No one shall be compelled to belong or not to belong to a political party.</p>			
<p>Law on the local public administration No. 69 of 26 November 1991, as amended by Law No. 24 of 12 April 1996 Art. 58</p>	<p>In relations between citizens and the authorities of the local public administration the language used shall be Romanian. In their relations with the authorities and staff of the local public administration, citizens belonging to national minorities may also communicate with them orally and in writing in their mother tongue. Applications submitted in writing shall be accompanied by an authenticated Romanian translation. Where the representative of the public authority or the official does not understand the minority language concerned an interpreter shall be used.</p>			
<p>Emergency government ordinance concerning the restitution of premises having belonged to the Jewish community in Romania (Ordinance No 21/1997) Article 2</p>	<p>A non-profit foundation shall be constituted in order to provide assistance and social protection to the members of Jewish communities in Romania and other individuals in need and to fight against anti-Semitism, racism, xenophobia and intolerance, and for the development of respect for diversity, democracy, liberty and justice; the preservation and</p>			

	development of relation between Romanian citizens and the citizens of other states, especially of the State of Israel, who are of Romanian origin.			
Law on the Status of the Public Servant No. 188/1999 Art. 26/2	It is forbidden any discrimination between the public servants based on political, trade union, religious, ethnic criteria, sex, wealth, social origin or any other criteria.			
Decision No. 65 of 23.05.2000 of the National Audiovisual Council concerning compulsory norms for advertising, teleshopping and sponsorship in the audiovisual field (Decision made on the basis of Art. 32 of the Audiovisual Law No 48/1992) Art. 5	Advertising and teleshopping shall not among others incite to violence, to national, racial, class or religious hatred or to discrimination on ground of sex, race or nationality.			
Law concerning advertising No 148/2000	An advertising which discriminates on grounds of race, language, origin, social origins, ethnic identity or nationality or constitutes an assault upon religious or political conviction is forbidden.			
Law regarding the free access to the information of public interest	The public authorities are bound to grant, without discrimination, the accreditation to the journalists and the mass			

No 544/2001 Art. 18	media representatives.			
Law No. 215 on Local Public Administration 23 April 2001 Art. 51 Art. 90	<p>In the administrative-territorial units where the proportion of the citizens belonging to a national minority is above 20% of the population, the normative decisions shall be brought to the notice of citizens in the language of those minorities, while the individual ones are communicated, to request, in the mother tongue as well.</p> <p>In the administrative territorial units where the proportion of the citizens belonging to a national minority is above 20% of the population, in their relations with the authorities and staff of the local public administration citizens belonging to national minorities may also communicate, orally or in writing, in their mother tongue and they shall be answered both in Romanian and in the mother tongue.</p>			
Law no. 19/2003 concerning the establishment and operation of the ROMPRES National Press Agency Art. 2	<p>Within framework of the right to information, ROMPRES shall ensure the objective collection, editing, and distribution of press data and pictures for the information of various categories of beneficiaries at home and abroad, without discrimination.</p>			
Law on radio and television	Freedom of expression by audio-visual means			

<p>broadcasting No. 48 of 21 May 1992 Art. 2</p>	<p>shall not adversely affect the dignity, honour or private life of the person or his right to his own image. Any defamation of the country or the nation, any instigation to a war of aggression, to national, racial, class or religious hatred, any incitement to discrimination, territorial separatism or public violence shall be prohibited.</p>			
<p>Law concerning the Status and the Regime of Refugees in Romania adopted on 7 March 1996. Art. 1 and 15</p>	<p>In Romania, refugee status is granted, upon request, to the foreigner who proves that he has justified fears of being persecuted in his country of origin for reasons of race, nationality, religion, membership to a particular social group or for his political opinions. Refugee status confers on its beneficiary the following rights: among others not to be expelled or returned, except for national security or public order, and when such measures are taken, the concerned individual cannot be sent to territories where his life or freedom would be endangered on grounds of race, religion, nationality, membership to a particular social group or political opinions.</p>			
<p>Ordinance on the Status and Regime of Refugees in Romania</p>	<p>Refugee status can be granted, upon request, to an alien who attests that owing to a well-founded fear of being persecuted</p>			

<p>adopted by the Government on 31 August 2000. Articles 2., 23. and 35.</p>	<p>for reasons of race, religion, nationality, membership of a particular social group or political opinion, and who is outside her/his country of origin and is unable, or, owing to such fear, is unwilling to obtain the protection of that country. The provisions of the ordinance shall apply irrespective of race, religion, country of origin, nationality or handicap (Art 35).</p>			
<p>Governmental Emergency Ordinance prohibiting fascist, racist, xenophobic organizations and symbols, as well as organizations and symbols that promoting the cult of personalities guilty of crimes against peace and humanity No. 31/2002</p>	<p>According to the Article 1 in order to prevent and fight incitement to national, racial or religious hatred, to discrimination, and to crimes against peace and humanity, this Emergency Ordinance prohibits fascist, racist, and xenophobic organisations and symbols, as well as organizations and symbols promoting the cult of personalities guilty of crimes against peace and humanity.</p>			
<p>Law No. 253/2002 amending and supplementing provisions of Law No 115/1999 concerning ministerial responsibility</p>	<p>Art. 61 (11) says “the following acts carried out by a member of the Government shall also constitute offence and shall be punishable by imprisonment for 6 month to 3 years: b) the issuing of normative orders or guidelines which discriminate on the basis of race, nationality,</p>			

	ethnic origin, language, religion, social status, beliefs, age, sex or sexual preference, membership in a political group, wealth, and social origin, and which results in harm to human rights....			
Law concerning the Status of Policepersons No. 360/2002 Art. 10	All persons, irrespective of their race, nationality, sex, religion, wealth or social origin, who meet the general legal conditions provided for public employees as well as the special terms listed in this Law, shall have access to the entrance examination to the educational institutions of the Ministry of the Interior, as well as to direct employment.			
Audiovisual Law No. 504 of 11 July 2002 Art. 17 + 29	The national Broadcasting Council which is established by the Law shall be among others authorize to non-discriminatory policies with respect to race, sex, nationality, religion, political belief, and sexual orientation. Publicity, including self-promotion, and teleshopping shall comply with following guidelines: Shall not impair the physical and moral development of minor; shall not damage human dignity; shall not discriminate on the basis of race, religion, nationality, sex or sexual orientation; shall not offend the religious or political beliefs of			

	viewers and listeners.			
Decision of the National Broadcasting Council No. 80 of 13 August 2002 concerning the protection of human dignity and the right to one's own image Art. 13	The broadcasting of anti-Semitic or xenophobic attitudes on radio and television channels is prohibited.			
Guidelines of the National Council for Combating Discrimination No. 1 of 5 March 2003 concerning the obligations of employers and representatives there of, as well as of the authors and makers of publicity announcements and their representatives with respect to conditioning employee positions in announcements and/or competitions and the publication of such announcements Art. 1	Employees and the representatives thereof announcing the opening of a position through publicity materials and/or messages, irrespective of the means of communication used in the transfer of such information, shall in accordance with the principle of equality among citizens and the exclusion of privileges and discrimination, ensure free access to all stages in the employment process to all persons, without distinctions, exclusions, restrictions or preferences based on race, nationality, ethnic origin, language, religion, social group or membership in an underprivileged category, age, sex, sexual orientation, and belief, with the exceptions provided under applicable laws.			
Governmental Ordinance no 77/2003 for	According to the ordinance, the term "discrimination" shall			

<p>amending and completing the Governmental ordinance No. 137/2000 On preventing and punishing all forms of Discrimination of 30 August 2003</p>	<p>encompass any difference, exclusion, restriction or preference based on race, nationality, ethnic appurtenance, language, religion, social status, beliefs, gender, sexual orientation, age, disability, chronic non-infectious disease, HIV infected persons or appurtenance to a disfavoured category, aiming to or resulting in a restriction or prevention of the equal recognition, use or exercise of human rights and fundamental freedoms in the political, economic, social and cultural field or in any fields of public life.</p>					
<p>Law for election of the local public administrative authorities No. 67/2004 Art. 2</p>	<p>Romanian citizens shall exercise equally their electoral rights without privileges and discrimination.</p>					

Note

¹ *Academia Romana, Institutul de Cercetari Juridice*, G. Antoniu and C. Bulai, *Practica Judiciara Penala*, Vol. III, *Partea speciala* (art. 155-363 *Codul Penal*), p. 273 under Article 317.

Note

² It concerns e.g. the Bucharest Court of Appeal – 4th Civil Section, File No. 716/2003 – Civil Judgment No. 1393 dated 5.6.2003, which is now in the claim filed against the Government of Romania (file no. 7198/04) in the European Court of Human Rights in Strasbourg. From a written report dated 23.5.2003 made by the Second Secretary of the Israeli Embassy in Bucharest, who attended the Proceeding of the final appeal, to Ministry of Interior in Israel, we learn how immense was the racist atmosphere in the Courtroom, which (according to the report “no doubt”) is reflected in the final decision of the Court.