

## **THE NATIONAL COUNCIL FOR COMBATING DISCRIMINATION**

Is the state authority which investigates and punishes the discriminatory acts and deeds as contraventions.

The Romanian legislative framework on the discrimination field provides the principal of equality among all citizens without discrimination on account of race, nationality, ethnical origin, language, religion, gender, belief, political orientation, fortune or social origin, as well as sanctioning the discrimination deeds.

- ✓ RACE,
- ✓ NATIONALITY,
- ✓ ETHNIC BELONGING,
- ✓ LANGUAGE,
- ✓ RELIGION,
- ✓ SOCIAL STATUS,
- ✓ BELIEFS,
- ✓ SEX OR SEXUAL ORIENTATION,
- ✓ BELONGING TO A DISFAVOURLED CATEGORY
- ✓ ANY OTHER CRITERION.

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# STUDY CASE

## **Complainers:**

-Z.W., W.Q., F. Z., LI.F., B.Y.

**Subject:** the refusal of embarking in the airplane, for the complainers, with destination Paris, because they were Chinese people, although they showed, in the airport, that the foreigners with the long term residence in Romania - like family member and resident in EU, don't need a visa for a period of maximum 90 days.

**Subject:** the petitioners claim to ascertain the act of discrimination committed by airline staff, who refused boarding on aircraft bound for their group to Paris, France, on the ground that they couldn't travel without the visa issued by the French authorities. The petitioners claimed that the denying of their boarding was based on their citizenship, namely the Chinese citizenship, although they have legal travel documents.

The petitioners are Chinese citizens, with the right of long-term residence in Romania or having the quality of a member of the family, being married to Romanian citizens. Both documents allow holders to travel throughout France without visa restrictions. Moreover, the petitioners had shown to the airport staff that they had already traveled several times to Paris, and they never were required visa from the Embassy.

## **In fact:**

the petitioners passed the check-in area, security control and verification of documents receiving the stamp to go out of Romania. When boarding the bus that take them to the aircraft they have been seen by an airline employee. The petitioners shows that they were the only Chinese citizens who were traveling with that flight. Further, they were taken separately by the employee, who requested the identity documents by informing them that they are not allowed to go to the aircraft, because they did not have a visa to enter the territory of the French state.

Following the denial of boarding, the petitioners have lost the flight and the money paid for the ticket. They demanded explanations concerning the refusal to allow boarding and the reason for their group was stopped, but the answer was not offered.

Through the opinion expressed at the Council's request, the defendant stated that Chinese citizens were banned from boarding aircraft Wizz Air to Paris for infringement of the Chinese citizens, as non-European citizens according to art. 9.1.1 from Wizz Air terms and conditions of travel which expressly established for this category of citizens the obligation to present at the check-in office in the airport to verify travel documents. Or, in this case, Chinese citizens were check-in online, ignoring Wizz Air travel conditions.

Following the complaint, an investigation team went to the International Airport "Henri Coanda" Bucharest, in order to perform its duties in the file.

Statements: shortly before flight departure, the employee of Romanian Airport Services, who performed the operations of check-in for Wizz Air W63051 flight for Paris Beauvais stopped two of the five Chinese citizens from boarding on aircraft Wizz Air, noting that they have a residence permit - long-term residents in Romania. The Romanian Airport Services employee would consult the software TIMATIC (IATA approved) in order to verify the existence / nonexistence of a potential ban on leaving the Romanian territory by Chinese citizens.



After verifying within the TIMATIC program the identity documents, the residence permits in Romania and destination of Chinese citizens, it emerged that two of the Chinese people, namely those who benefited from a residence permit with the right long-term residency in EC, did not have all the documents needed to make the trip to France (did not have a visa for entry into French territory). The other three Chinese citizens had no travel limits.

From the investigation report emerged that the petitioners, non EU citizens were obliged to perform the check-in operations at the airport, operation expressly provided in issued ticket. If the operations of check-in would have been done at the airport it could have contacted the authorities of destination (in this case the French authorities) to clarify the situation for passengers holding a residence permit with the right long-term residence. It was communicated that an eventual return of the passengers, by the authorities of the destination, could result in applying fines for the airline company.

## DECISIONS OF THE STEERING BOARD

In fact, the petition formulated and sent to NCCD for settlement, is notified regarding a potential act of discrimination, respectively the denial of boarding on aircraft Wizzair the petitioners, as they are Chinese citizens.



The Board ascertained: The petitioners did not check in at the airport, fact specifically described in note held: NON-EU / EEA passengers must go to the boarding point for checking travel documents and visa

To be qualified as a discriminatory act, it must have fulfilled the following conditions:

- Existence of discriminatory grounds provided by law
- Existence of a different treatment/similar situations or omission to treat differently situations that are not comparable;
- The treatment have had the object or effect of restricting, removing the recognition, enjoyment or exercise, on an equal footing, of a right recognized by law;
- Different treatment was not objectively justified by a legitimate aim and the means of achieving that aim was not appropriate and necessary.

The Steering Board noted that the ground raised in the petition, the discrimination criteria raised by the petitioners is the nationality / their citizenship, fact contradicted by the manner in which events unfolded. Chinese citizens holding a document family EU member outset having the right to leave the country without any hindrance. Although the petition indicates that the petitioners, all five of them, could not leave the country because of staff antipathy conducted boarding operations, their claims are not supported by any evidence.



The Steering Board ascertained that, in fact, in this case the conditions are not fulfilled for an act to be qualified as discriminatory and can not be identified the causality between the criteria put forward by the petitioners (citizenship / nationality) and matters allegedly discriminatory to be reviewed, respectively the refusal of boarding the petitioners on the aircraft Wizz Air.

○ The Steering Board ascertained that notified aspects by the petitioners can not be classified as act of discrimination, not being fulfilled the conditions required by law, namely the existence of causal link between the criteria alleged by the petitioners and the notified act.



The background features a light blue gradient that transitions from a pale, almost white hue at the top to a deeper, medium blue at the bottom. Scattered across this gradient are numerous water droplets of varying sizes and shapes. Some droplets are large and prominent, while others are small and delicate. Each droplet is rendered with a soft, realistic effect, showing highlights and shadows that give them a three-dimensional appearance. The overall aesthetic is clean, fresh, and serene.

## CASE STUDY 2

- Petitioner: Democratic Alliance of Hungarians in Romania
- Subject: employment announcement – discriminatory conditions
- Accountant: N.L.L., as employer at the news paper “Daily Information”, as publisher of the announcement.

- DAHR noticed the Council regarding an employment announcement of the newspaper “Daily information”, that contained the discriminatory condition: “no citizens of Hungarian nationality”.
- Subsequent the analysis of data in the file and the defense of the claimed parts, the Steering Board has ascertained the following:

-Regarding the newspaper, its explanation of publishing an unverified announcement, transferring the responsibility solely on the employer, does not constitute a reasonable and objective justification, the newspaper has the obligation and possibility to check the announcement it publishes. The passive behavior of this publication created effects that unreasonably favor or disfavor a person, a group of persons or a community on their access to labor market, having as discriminatory criterion the belonging to a particular nationality, default the citizen report with the Hungarian state. Indirect discrimination punishment: 2000 lei and publication of the Steering Board's summary decision.

- Regarding the employer who published the employment announcement, he was found guilty of direct discrimination, based on the Hungarian citizenship criterion of potential applicants for that job, and sanctioned by a fine amounting to 3000 lei. He has acknowledged the mistake and paid the fine.
- The decision was challenged by representatives of the newspaper, the trial court upheld the NCCD judgment.
- Currently, the first court decision was appealed, the High Court of Cassation and Justice going to pronounce a decision.

The background is a light blue gradient with several realistic water droplets of various sizes scattered across it. The droplets have highlights and shadows, giving them a three-dimensional appearance. The text 'THANK YOU!' is centered in the middle of the image.

**THANK YOU!**