



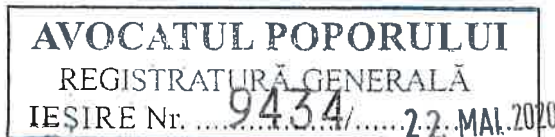
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*Ms. Emily O'Reilly,  
European Ombudsman*



*Dear Colleague,*

Given the good collaborative relationship between the European Ombudsman and the People's Advocate institution, I would like to bring to your attention two situations from Romania, and I would greatly appreciate if I would receive your point of view regarding the matters set out in this letter.

On May 18, 2020, by Government Decision no. 394/2020, the state of alert was established on the entire territory of Romania, for a period of 30 days. According to the provisions of Art. 9 point 3 of Annex no. 3 – The measures of 18 May 2020 to reduce the impact of this type of risk – to the above-mentioned Decision, ***establish the obligation of public institutions and authorities, economic operators and professionals to organize their activity, so as to ensure, upon entry into their premises, mandatory epidemiological triage and compulsory disinfection of hands, both for their own staff and for visitors, under the conditions established by the joint order of the Minister of Health and the Minister of Internal Affairs.***

Also, in accordance with the provisions of Art. 13, point (b) of Law no. 55/2020 on certain measures to prevent and combat the effects of the COVID-19 pandemic, (...) ***for their own staff, the epidemiological triage consists in measuring the temperature by non-contact thermometer, and for visitors the triage is performed by measuring the temperature.***

At the same time, considering the provisions of Art. 2 point (d) of the Joint Order of the Minister of Labor and Social Protection and the Minister of Health no. 3577/831/2020, during the state of alert, in order to prevent the spread of COVID-19, ***all employees in the public and private sector have the obligation to accept the verification of body temperature, upon entry into the premises at the beginning of the work day, and whenever they re-enter the premises.***

In this context, according to the legislation in force, for all employees in the public and private sector there is an obligation to accept the body temperature check,

the same conduct being applicable to consumers/visitors, who are obliged to comply with the above conditions.

***Thus, it would be useful to know your point of view, from the perspective of non-compliance with the rights of consumers, who in order to have access, for example, in a store to buy food, are required to accept the body temperature check, performed by a person without medical qualification (most of the times, security guards), without respecting the confidentiality of medical data, these being obtained with the help of medical devices that, most of the time, give inaccurate readings.***

Another situation that I would like to point out to you is the one regarding the conditions in which the pre-university and university exams are going to take place, whether we are talking about the admission ones or the graduation ones.

***By the joint Order of the Minister of Education and Research and the Minister of Health no. 4259/827/2020, access is not allowed to persons whose body temperature, measured at the entrance to the premises, exceeds 37.3°C in educational units / institutions, public institutions and all structures under the subordination or coordination of the Ministry of Education and Research.***

I specify that the abovementioned exams take place every year between June and July, a period in which high temperatures are reached in Romania, on average 32-35°C, which can lead to an increase in body temperature. To this are added the emotions of the candidates, but also other possible causes such as: dental problems, certain urinary pathologies, other types of infections, etc.

***In view of the above, I would highly appreciate your opinion on a possible discriminatory situation, created as a result of the regulations indicated above, in the context in which if the body temperature exceeds the allowed limit, for other reasons than those related to SARS-CoV2 virus, it may lead to the violation of the right to education of the participants in admission / graduation exams.***

Thank you.

With my best regards,

Ombudsperson,  
  
Renate Weber



Bucharest, May 19, 2020