

THE EQUAL OPPORTUNITIES OF DYSLEXIC AND
DYSGRAPHIC PERSONS TO PARTICIPATE AS CANDIDATES FOR
THE DRIVING LICENSE EXAMINATION

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Abstract

Concerning the equal opportunities of dyslexic and/or dysgraphic persons to participate as candidates for the driving license examination, we mention that, besides the law that regulates it, it is circumscribed to the principle of equality enshrined by Article 16 of the Romanian Constitution. According to this article, equality is manifested before the law and the public authorities, without privileges and without discrimination.

Along the same lines, Article 1 paragraph (2) of the Ordinance no.137 / 2000 on the prevention and sanctioning of all forms of discrimination, republished, establishes that the principle of equality between citizens and the exclusion of privileges and discrimination are guaranteed especially in the exercise of several rights, including the exercise of the right of access to all places and services intended for public use, as well as the right to work and the free choice of occupation. Or, it is known that obtaining a driving license is often a mandatory requirement for a job.

In the present study, we will try to put forward arguments for the necessity of amending the Romanian legislation regarding the recognition of equal opportunities for dyslexic persons to participate in the examination for obtaining a driving license.

Keywords: *dyslexia, dysgraphia, examination, driving license*

1. Introduction

Currently, the Romanian legislation has no working procedure regulating exceptional situations that may appear in the domain of the driving license examination. One exceptional situation, for instance, may be the legal possibility of the presence of a neutral witness while passing the theoretical test (as part of the driving license examination) by a person suffering from dyslexic and dystrophy problems. It results that the exceptional situations are governed by the common legal provisions in force and therefore a person suffering from such a medical condition cannot formulate such a request.

In fact, the question arises as to which solution can be identified for persons suffering from dyslexia and dysgraphia who want to be allowed to

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pass the theoretical test of the driving license examination. According to the legislation in force, it is not possible for a person other than the candidate to be present in the examination room.

Given that at this time, national law does not allow access into the theoretical examination room of a third person, the Directorate of Vehicle Driving License and Vehicle Regime within the Ministry of Internal Affairs (institution coordinating methodologically the activity of the county services) should consider the possibility of modifying the existing regulatory framework in order to allow, in exceptional cases, the presence of a neutral witness to the theoretical test, during the driving license exam.

2. National legal framework

According to Article 21 (of Government Emergency Ordinance no.195/2002, republished) as subsequently amended and supplemented:

(1) Drivers of vehicles or trams shall have the knowledge and skills necessary for driving and shall be psychologically and physically fit.

(2) Drivers of cars or trams shall be periodically checked from a medical and psychological point of view, under the conditions established by the regulations in force.

According to Article 22 of the same ordinance, the medical examination is performed for the purpose of certifying the health status and the physical qualities necessary for a driver of a motor vehicle, agricultural or forestry tractor or tram, and medical conditions incompatible with the quality of driver of agricultural or forestry tractors trams are established by the Ministry of Public Health and are approved by order of the Minister, which is published in Monitorul Oficial (Official Gazette) of Romania, Part I.

Medical examination is performed in order to:

a) get approval to participate in the examination for obtaining a driving license;

b) obtain a certificate of professional attestation for drivers of motor vehicles, agricultural or forestry tractors or trams, as established by this emergency ordinance

c) carry out the periodic verification according to the regulations in force.

In the situation when the family doctor finds out that a person in his record, who detains a driving license, presents a medical condition stipulated by the Order of the Minister (of Public Health,) issued according to paragraph (2), will request medical assistance from an authorized unit to perform a specialized examination. The approved healthcare unit will immediately notify the police department on whose territory it operates, if it

has established that the person is unfit to drive a motor vehicle, agricultural or forestry tractor, or tram.

According to Article 6 (1) of the Order no.268 / 2010 of the Ministry of Administration and of Interior (regarding the examination procedure for obtaining the driving license, from now on referred to as 'driving exam procedure') candidates must meet, among other things, the condition of being medically fit, from the date of the submission of the application file, respectively from the date of the exam itself.

The medical and psychological examination in order to obtain the driving license is regulated by the *Minimum Rules for Physical and Mental Fitness Required for Driving a Motor Vehicle*, approved by the Order of the Minister of Health no.1162/2010 (with subsequent amendments and completions).

According to art.18 letter e) of the Order no. 268/2010 (regarding the examination procedure for obtaining the driving license, as subsequently amended and supplemented) during the practical driving test of the vehicle, the examiners must "ensure the presence in the vehicle of at least one witness during the examination of each candidate". Also, according to Article 2, letter (j) of the same order, the witness is "a person from among the candidates who assist in the practical examination of another candidate".

From the analysis of the legal provisions regulating the procedure for the driving license exam, it follows that the legislator expressly provided the presence of the witness only during the practical test. According to the explanations provided by DRPCVV, the role of the witness is not to help the candidate during the practical test, but his presence is meant in fact to be a solution that ensures the examination itself.

This is not the case for the theoretical test, and from the analysis of Article 11, paragraph (11), letter c) of the examination procedure, it results that the access to the examination room of persons other than the candidates is not possible, due to the bar code registered in the exam software which allows access into the room only for the enrolled candidates.

From a medical point of view, dyslexia and dysgraphia fall into the category of neurological diseases (see Note [1]). Unfortunately, the provisions of point 6.1. of the Norms on Physical and Mental Fitness Required for Driving a Vehicle, approved by the Order of the Minister of Health no.1162/2010 (as amended and supplemented) require the presentation of an authorized medical opinion for the issue of the driving license, only in case of serious neurological disorders, without clearly stating which diseases. *Per a contrario*, dyslexia or dysgraphia are not presumed to be neurological disorders for which the legislation imposes a prohibition on issuing a driving license.

3. European legal framework

At EU level, Directive 2006/126 / EC (*OJ L 403*, 30.12.2006, p. 18–60) on driving licenses regulates two groups of candidates:

1) candidates who are required to undergo a medical examination, while preparing the necessary formalities before obtaining the driving license, if it becomes evident that they are suffering from one or more of the medical conditions referred to in this Annex;

2) candidates who have to perform medical examinations, prior to the initial issue of the driving license, and afterwards as drivers they have to be periodically checked out, in accordance with the national system in force in the Member State of habitual residence, whenever their driving license is renewed.

Regarding neurological disorders, paragraph 1 (11.1) of Directive 2006/126 / EC states that driving licenses are not issued or renewed to applicants or drivers suffering from serious neurological conditions, unless the application is based on an authorized medical opinion. Consequently, the neurological disorders associated with diseases or surgical interventions, that influence the central or peripheral nervous system and lead to sensory or motor deficits affecting the sense of balance and coordination, must be considered according to their functional effects and evolutionary risks. In such cases, the issuance or renewal of the driving license may be subject to periodic assessment in case of growing risks.

Although the Directive allows Member States to impose rules that are more restrictive than those regulated at European level, the Romanian state has transposed the provisions of the Directive and has not provided for anything to prohibit or restrict the right of dyslexic or dysgraphia affected persons to apply for a driving license examination.

As a result, we appreciate that the official authority in the field (in this case, the Ministry of Internal Affairs) must develop a working procedure to enable people with these disorders to participate in the examination for obtaining a driving license.

It is understood that the candidate who claims to suffer from dyslexic and/or dysphoric disorders will provide all the necessary documents similar to the other candidates, including the medical opinion "Fit for Driving Vehicles in the Group ...". In addition, the candidate will need a recommendation from a doctor specialized in dyslexic and/or dysphoric disorders.

4. National legal framework in other areas

The legal framework in the field of education for people with dyslexia and/or dysgraphia is a good example of legislation on driving license examinations.

Law no.1 / 2011 on National Education, as subsequently amended and supplemented, stipulates in art.12 (11) - (12) that education of people with learning disabilities (dyslexia, dysgraphia, dyscalculia) is ensured by established psycho-pedagogical methods and by an appropriate approach, according to the law. People with learning disabilities are integrated into mass education.

Article 475 of the same law provides that, at the recommendation of the specialist, pupils with learning disabilities may use compensatory materials or tools, including computer technology, and will benefit from a tailored assessment during the two semesters. In order to identify solutions to ensure equal opportunities, we consider compensatory instruments to be a case of good practice, not only for their education, but also for assessing people with learning disabilities wishing to take part in the driving license exam.

Compensatory instruments are mentioned in Annex no. 2 of the Methodology for providing the necessary support for pupils with learning disabilities, approved by Order no.3124/2017 issued by the Minister of National Education (hereinafter referred to as Methodology). Among these tools, we exemplify:

Poor skill	Symptoms	Compensation measures	Dispensing measures	Adapted evaluation
Dyslexia	Slow reading Reading is not cursive Read with many mistakes	Computer / tablet with software - vocal synthesizer, which transforms the reading theme into a listening theme.	The dispensation of the autonomous reading of texts whose length and complexity are incompatible with the child's skills level.	Additional time (30-60 minutes) is provided for sample execution; computerized samples are introduced.

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Dysgraphia	Slow writing to meet the written task requires an execution time above average; Writing with many mistakes (confuse letters, omit or add letters, syllables, reverse syllables, etc.)	Computer with a video spelling program with a spell checker that allows you to produce texts that are correct enough without extra effort to rectify and correct mistakes.	Deduction of observing times for writing tasks.	Additional time (30-60 minutes) is provided for the execution of the samples or checks are carried out with fewer requirements . Depending on the situation, evaluations will be such as to limit writing; computerized samples are introduced.
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Therefore, in order to ensure equal opportunities, it is important to adopt appropriate forms and tools for education, learning and assessment that are specifically designed for persons suffering from dyslexia /dysgraphia.

According to Article 5, letter (a) to (c), of the same Methodology, learning disorders, referred to as Specific Learning Disorders (SLDs), designate a heterogeneous group of disorders affecting the typical process of acquiring school abilities (reading, writing and mathematical):

a) dyslexia, dysgraphia (including dissonography), dyscalculia. This is not a consequence of a lack of learning opportunities or a lack of motivation for learning, it is not the result of an intellectual disability, or of a liminal intellect, sensory deficit (e.g. auditory, visual, motor), affective and emotional disorders of a psychiatric nature, or any other (neuro) developmental disorders (e.g., TSA - autistic spectrum disorders, ADHD - Attention Deficit Disorder and Hyperactivity Disorder). These are not caused by any form of cerebral trauma or malady of acquisition. Dyslexia, dysgraphia and dyscalculia may appear isolated or may be associated.

b) Dyslexia is a specific disorder of reading abilities (in terms of fairness, fluency, comprehension) that are not developed to the expected level, in terms of intellectual development, schooling stage and age category of the person in case;

c) Dysgraphia encompasses all forms of disruption of the typical acquisition process of written expression (letter errors, syntactic errors and punctuation errors, graphical organization of paragraphs);

Therefore, diagnosis of learning disorder is excluded, according to Article 13 of the Methodology, in the following cases:

a) student Intelligence (IQ) less than 85 (presence of intellectual disability or liminal intellect);

b) uncorrected auditory and visual sensory deficits;

c) psychiatric or neurological disorders;

d) absence of learning opportunities (absenteeism, prolonged hospitalization, belonging to disadvantaged groups, non-attendance of pre-school education, lack of training, poor or insufficient education);

e) psychosocial disadvantages;

f) other external influences relevant to the procurement process.

To ensure the right to participate in the driving exam, it is required that the severity of the disorder to be assessed by the specialist doctor who issues the medical opinion deemed necessary.

5. Equal opportunities

Concerning the equal opportunities of dyslexic and/or dysgraphia persons to participate as candidates for the driving license examination, we consider that it is circumscribed to the principle of equality before the law regulated by art.16 of the Romanian Constitution. According to this principle, equality has to be manifested before the law and the public authorities without privileges and without discrimination (Constantinescu, Iorgovan, Muraru, Tănăsescu, 2004, p. 21).

Also, Article 1, paragraph (2), of the Ordinance no.137/2000, on the prevention and sanctioning of all forms of discrimination, republished, establishes that the principle of equality between citizens, as well as the exclusion of privileges and discrimination, are guaranteed for the exercise of several rights, including the exercise of the right of access to all places and services intended for public use, or the right to work and free choice of occupation. It is a known fact that obtaining a driving license is often a mandatory requirement for a job.

In view of the above, we underline that the situation under analysis circumscribes not only the provisions of the national legislation, but also those stipulated in the international documents that Romania has ratified or which have to be transposed into the national legislation.

Thus, according to Article 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms - an international document adopted by the Council of Europe and ratified by Romania as a member state

- regulates the prohibition of discrimination: "the exercise of the rights and freedoms recognized by this Convention must be ensured without any distinction based, in particular, on sex, race, color, language, religion, political opinion or any other opinion, national or social origin, membership of a national minority, wealth, birth or any other situation".

In addition, Article 21 of the Charter of Fundamental Rights of the European Union regulates non-discrimination: "discrimination of any kind based on grounds such as gender, race, color, ethnic or social origin, genetic characteristics, language, religion or beliefs, political opinions or any other kind, membership of a national minority, wealth, birth, disability, age or sexual orientation". We mention that this European document is the source of the primary law of the European Union (like the Treaty of the European Union and the Treaty on the Functioning of the European Union), which leads to its direct application on the territory of the European Union Member State, in this case Romania (being ratified by the Romanian State with the Treaty of Lisbon).

In the sense of recognizing the prevalence of international human rights, Article 20, paragraph (2), of the Romanian Constitution states: "If there are inconsistencies between the covenants and treaties on the fundamental human rights to which Romania is a party and the internal laws, priority is given to international regulations, unless the Constitution or domestic laws contain more favorable provisions".

6. Conclusions

As a result, we believe that it is necessary to amend the legislation in force to ensure equal opportunities for people with dyslexic and/or dysgraphia disorders and to provide rules and methods to enable them to participate in the driving license exam. Persons claiming to be suffering from such disorders will present (in the application file) the recommendation of a specialist physician.

Candidates, with diagnosed dyslexic/dystrophic disorder, will also have access to the driving license exam, using the compensatory instruments and an adapted assessment according to a methodology to be developed by the Ministry of Internal Affairs.

The file of a candidate with dyslexic/dysgraphia disorders should contain all the documents necessary for all other candidates, including medical documents "suitable for the driving of motor vehicles in the group ..." according to art. 6, paragraph (2), letter b), of the Order no.268 / 2010 on the examination procedure for obtaining a driving license, approved by the Minister of Administration and Internal Affairs.

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Thus, the Government Emergency Ordinance no.195/2002 (republished, as subsequently amended and supplemented) and the Order of the Minister of Administration and of Interior no.268 / 2010 (on the examination procedure for obtaining the driving license) will ensure equal opportunities for persons suffering from dyslexia and/or dysgraphia, in the case of attending the driving license exam.

Note

[1] Dyslexia is the difficulty of knowing precisely and fluently the written and spoken language, a difficulty affecting about 10% of the population. Dyslexia is not a disease, so it cannot be cured. Poor reading or dyslexia is the most common learning disability, although in literature it is considered to be a learning disability resulting from language perception problems. Dyslexic adults can show a good level of comprehension when they read, but they tend to read harder than non-dyslexics, and record much lower scores in spelling or reading meaningless words.

Dyslexia and IQ are not interconnected and, as a result, cognition develops independently.

In conclusion, dyslexia is a learning disorder that is based on a neurological dysfunction that prevents the ability to read and write. Confusing letters, reading slowly, reading syllables in the opposite direction, difficulties in understanding the text read are just some of the manifestations (the official website of the University of Medicine and Pharmacy of Craiova: <http://www.umfcv.ro/CCOP-ce-is-dyslexia>).

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