



European network of legal experts in gender equality and non-discrimination

NEWS REPORT

Country:	Romania
Title:	National equality body decision on social housing criteria in Bucharest
Date:	12 August 2016
Expert:	Iordache, Romanița
<u>Context</u>	
Issue at stake:	Social housing criteria deemed as discriminatory following ex officio NCCD investigation
Ground of discrimination:	disability
Source:	NCCD decision 349 from 04.05.2016
Field:	social advantages, housing
Applicable law:	Governmental Ordinance 137/2000, Article 2(1), 2(4) and 10 letters a) and h)

Content

Case development: The National Council for Combating Discrimination initiated an ex officio investigation against the institution of Mayor of Bucharest (*Instituția Primarului București*) and the General Council of Bucharest Municipality (*Consiliul General al Municipiului București*). The investigation was based on the fact that the criteria for social housing which is based on allocating a certain number of points for different categories included 4 points for persons with disabilities, compared to 10 points for persons with higher education and 15 points for veterans and war widows, revolutionaries (persons who fought in December 1989) and former political detainees.

Decision of the NCCD: The NCCD found that the criteria established by the two institutions for access to social housing de facto limits access of persons with disabilities to public housing. The NCCD noted that the local administration did not meet its duties under the burden of proof by failing to provide a justification for the differential criteria. The decision of the NCCD finds that the criteria listed in the annex no. 3 of the decision of the General Council of Bucharest Municipality 162/2015 amount to direct discrimination on the ground of disability. In its reasoning the NCCD looked at the different legal obligations of ensuring protection, including through priority given in cases of social housing, to persons with disabilities and to persons who fought in December 1989 or war veterans and widows. In spite of similar legal duties in relation with the two categories of subjects, the criteria established in the Annex 3 led to de facto exclusion of person with disabilities given the lower number of points assigned.

The decision also discussed another protected category, that of "single parent families with children in their care", a category excluding other vulnerable groups in the opinion of the NCCD.

The NCCD underlined that the defendant did not provide any legitimate aim in order to justify the selection of the criteria and the number of points assigned for each and in this

way there was no reversal of the burden of proof. Given the failure of the local authorities to provide information on the number of decisions regarding social housing allocations since 2014, the NCCD also found that the discrimination is continuing.

The sanction decided was a fine of RON 10.000 (approx. EUR 2.500) for the institution of Mayor of Bucharest (*Instituția Primarului București*) as well as the duty to publish the decision in the media. The NCCD also recommended to the defendant to revise the relevant documentation and decided to monitor the defendant for six months.

Key points of analysis:

The ex officio nature of the case is of particular interest. While mentioning indirect discrimination as well, the NCCD decision sanctions direct discrimination. The failure of the local authorities to provide the required documentation and to justify the differential treatment is defined by the NCCD as a failure in meeting their onus under the burden of proof.

Internet link source:

Not available online.