



## ***ENFORCEMENT OF ANTI-DISCRIMINATION LAW REGARDING ROMA***

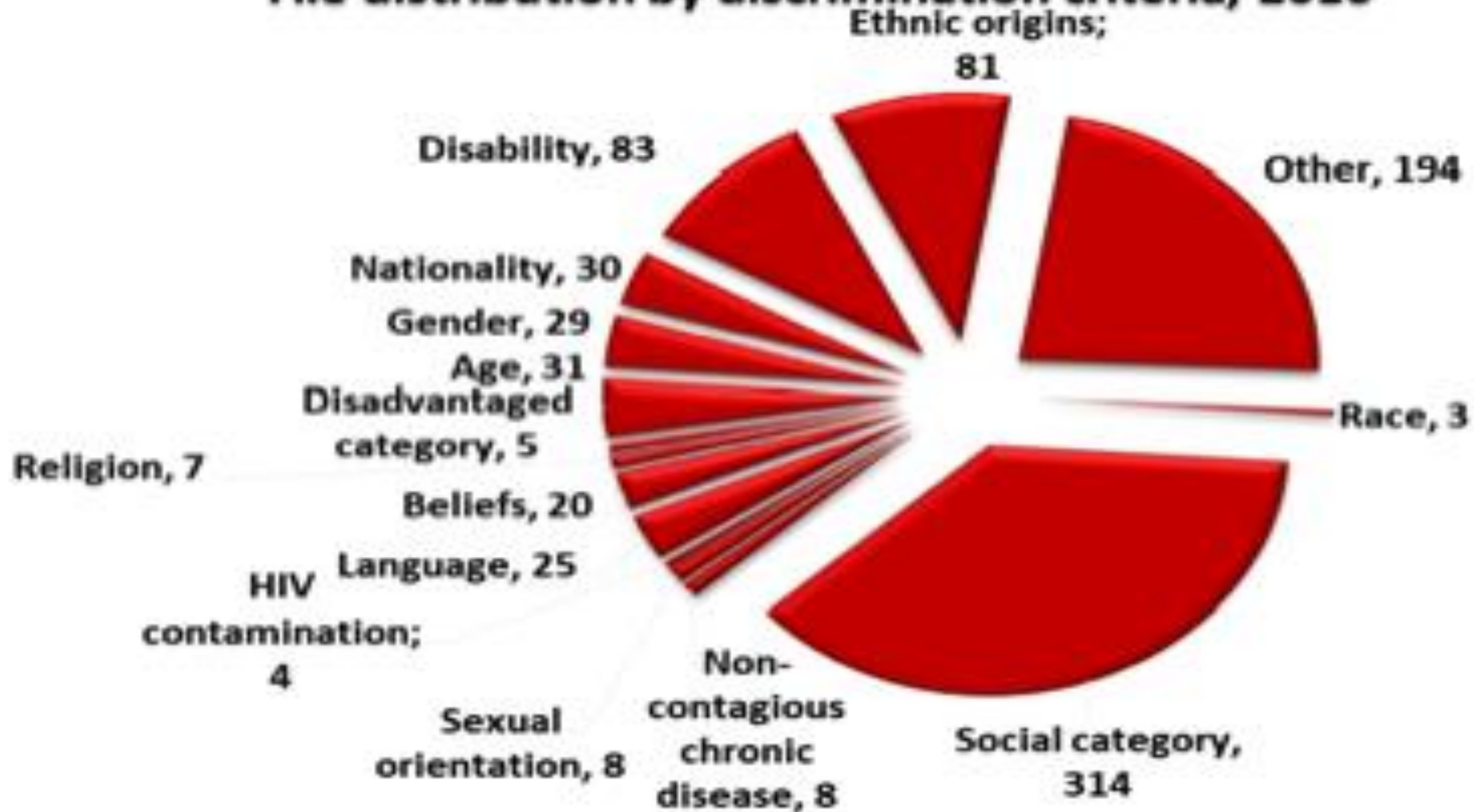
The European network of legal experts in gender equality and non-discrimination

**Legal seminar – December 1, 2017 – Brussels**

**Asztalos Csaba Ferenc, president,  
Romanian National Council for Combating Discrimination**

CRITERIA	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Non-contagious chronic disease	0	0	6	2	3	2	4	2	0	1	6	9	9	5	8
Sexual orientation	1	5	6	9	6	7	6	6	4	8	3	13	9	3	8
HIV contamination	0	1	15	10	5	3	7	1	3	1	5	4	3	4	4
Language	0	2	1	2	2	7	11	13	16	10	43	38	27	27	25
Beliefs	4	12	23	19	8	10	14	13	4	2	15	14	13	4	20
Religion	2	9	9	11	8	12	15	6	6	5	5	11	18	14	7
Disadvantaged category	2	0	10	6	4	26	22	9	7	14	10	13	25	26	5
Age	6	11	14	17	10	10	24	10	9	16	5	18	21	22	31
Gender	3	14	13	9	11	22	32	9	18	15	21	31	46	28	29
Nationality	1	12	21	39	20	39	54	28	42	33	49	61	49	36	30
Disability	3	31	18	21	20	70	55	49	38	42	45	42	57	56	83
Ethnic origins	34	66	45	85	69	82	62	62	54	62	61	66	42	61	81
Other	52	184	108	61	132	32	159	96	83	81	69	121	127	147	194
Race	0	0	1	1	2	0	0	2	1	0	0	3	2	1	3
Social category	26	126	63	90	132	514	372	222	193	175	211	414	328	318	314
TOTAL	134	473	353	382	432	836	837	528	478	465	548	858	776	752	842

# File distribution by discrimination criteria, 2016



## STATISTICAL DATA

- The NCCD has registered 842 complaints in 2016, 81 of which based on the ethnic criterion;
- Also in 2016, there have been 21 cases of ethnical discrimination found, which resulted in:
  - 15 fines,
  - 5 recommendations,
  - 4 warnings,
  - and in 5 of these cases, the defendants were obliged to publish a summary of the NCCD decision.

# CASES OF DISCRIMINATION AGAINST ROMA - ROMANIA

- Cases 4313/2/2016 and 4314/2/2016 regarding denial of access to a wellness and spa centre, known as THERME, for persons of Roma origin
- Case 4A/2011 concerns measures taken by the municipality of Baia Mare, consisting in walling off an area of the town populated mostly by persons of Roma origin



## CASE OF THERME BUCHAREST DENIAL OF ACCESS

- Due to similarities between the two cases, factual information reported for one case also applies to the other;
- Multiple transgressions against people of Roma origin, by THERME Wellness and Spa Centre, had been reported;
- At least 2 cases have reached the National Council for Combating Discrimination and a “testing”-type video was also submitted.

## CASE OF THERME BUCHAREST DENIAL OF ACCESS

- In both cases the issue of liability was discussed, as Therme invoked a lack of legal capacity to stand trial, shifting responsibility towards the security company, DAB Security.
- The Therme Spa internal guidelines explicitly prohibit any discriminatory behaviour by its employees and contractual personnel, however, the date on which it entered in effect was uncertain.
- Internal guidelines also prohibit access of children under the age of 16, to a certain area of the spa; this does not explain why the entire group was not granted access to the greater area, which had no such restrictions.

## CASE OF THE WALL OF BAIA MARE

- The National Council for Combating Discrimination opened an ex officio investigation upon receiving information that the municipality of Baia Mare intended to build a wall delimitating an area inhabited mostly by Roma population.
- The Council was also sent petitions by NGOs, including Romani CRISS and Amnesty International, raising awareness of the issue and asking for measures to be taken.
- The mayor of Baia Mare has stated that the purpose of the wall was not to segregate the population, but instead to prevent children from the community from running in the street, for their own safety.



# CASE OF THE WALL OF BAIA MARE

- The NCCD requested opinions from multiple entities concerned with the protection of Roma rights, such as the Roma Party, Roma Civic Alliance and European Roma Rights Centre.
- Additionally, statistical data from the County's Police Inspectorate was requested in order to determine if the wall was required, as the mayor stated, for the protection of the citizens against car accidents.

# JUDICIAL DECISIONS – KEY ELEMENTS – THERME CASES

- THERME was fined 5.000 RON (~1100 euro) and DAB Security was fined 10.000 RON (~2200 euro) – in each case. Both companies were obliged to publish a summary of NCCD's decision in the media.
- The Court of Appeal upheld the decision of the NCCD Steering Board based on the evidence submitted, such as the uncertainty of the date on which the internal guidelines came into effect, and acknowledged that this does not ensure the fulfillment of their responsibility to disseminate information and train their staff and contractual personnel.
- Shifting of burden of proof.
- Furthermore, the Court maintains that the beneficiary of a contract cannot fully transfer responsibility of security activities to the contractor (also, a lack of promptitude and effectiveness in responding to this situation creates the basis for judicial inquiry).
- Inovative element of inviting as parties in the administrative procedure the plaintiffs which allowed them to seek damages. The Court ordered DAB Security to pay moral damages of 10,000 RON (~2200 euro) to each party and Therme to pay 5,000 RON (~1100 euro) moral damages to each victim.

## JUDICIAL DECISIONS – KEY ELEMENTS WALL OF BAIIA MARE

- The High Court of Cassation and Justice rejected the plaintiffs' request to dismiss the decision of the NCCD Steering Board
- Among the key evidence presented, we count the traffic accidents statistics provided by the County's Police Inspectorate, which mentioned 5 accidents in the area where the wall was to be built, but also confirmed other areas in the city to be a greater risk, from this perspective
- The HCCJ also based its' decision on the technical memorandum of a meeting of the Local Council of the city of Baia Mare in which the need for a wall was discussed, and reasons for building such a wall were made clearer: "Inhabitants dump their trash on the street and in areas adjacent to the building" and "children throw heavy objects towards passing vehicles, disrupting traffic".

## REMAINING CHALLENGE

- Even though, the High Court agreed with the decision of the NCCDs' Steering Board, and the decision stands even after the appeal, the concrete structure separating housing spaces from the street has not been taken down yet.

THANK YOU FOR YOUR ATTENTION!

**There are no bad questions, just  
answers!**