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FLASH REPORT

Country:	Romania
Title:	New sanction issued by the NCCD for the segregation wall in Baia Mare
Date:	14 February 2020
Expert:	Romanita Iordache
Update of flash reports:	RO-68/2011, RO-73/2012, RO-106/2013 (available upon request)
<u>Context</u>	
Issue at stake:	NCCD sanctions the mayor of Baia Mare for the failure to demolish the segregation wall previously found as amounting to discrimination
Grounds of discrimination:	Racial or ethnic origin
Field of application:	Housing, Other field
Source:	National equality body
Applicable law:	Article 2(1) and Article 15 of the Governmental Ordinance 137/2000

Content

Case/law/policy development: In July 2011, the Mayor of the northern Romanian city Baia Mare ordered the building of a concrete wall of a height of 1.8 - 2 meters and approximately 100 meters long between a Roma neighbourhood and the main road in Baia Mare. The NCCD started an *ex officio* investigation and in its decision No. 439 from 15.11.2011, the NCCD found that the wall amounted to harassment prohibited by Article 2(5) of the Anti-discrimination Law together with Article 15 on the infringement of human dignity. The NCCD decided to impose a fine of RON 6 000 (approx. EUR 1 500) and to recommend the demolishing of the concrete wall. The Mayor appealed against the NCCD decision.¹ The Court of Appeal of Cluj accepted the appeal and quashed the NCCD decision.² However, the High Court of Cassation and Justice decided to modify the judgment of the Court of Appeal by rejecting the appeal filed by the Mayor and maintaining the decision of the NCCD which found that discrimination occurred and that the Mayor should pay a fine.³ In 2017, the continuing presence of the segregating wall was challenged again before the NCCD and found as discriminatory and the courts maintained the NCCD decision.

Given that the wall was not demolished in spite of the repeated sanctions, an NGO, the Association 'Loving Colours' filed a complaint with the NCCD complaining against the continuing segregation.

Decision of the NCCD: In its decision No. 89 from 29 January 2020, the NCCD found discrimination under Article 2(1) and Article 15 (right to dignity). The Romanian Anti-discrimination Law does not prohibit segregation explicitly and the deed was punished in

¹ See RO Flash 68/2011.

² See RO Flash 73/2012.

³ See RO Flash 106/2013.

the past as harassment and infringement of the right to dignity. A fine of RON 7 000 (approx. EUR 1 300) was also issued against the Baia Mare Territorial Administrative Unit. The high quantum of the fine was justified by the NCCD given that the discrimination affected a community, the defendant is a public institution and was previously fined for the same deed but did not change its conduct. The decision was taken in unanimity by the six members participating in the hearings.

Key points of analysis: The decision indicates the commitment of the NCCD to continue punishing segregation as discrimination and the importance of developing a following up-monitoring mechanism for the NCCD decision. The case also shows the limitations of the remedies provided by the NCCD given that the segregating wall is still standing in spite of the NCCD repeated sanctions and the confirmations of these decisions by the courts of law.

Internet link source: The decision of the NCCD is available in Romanian per request.