

Act CXXV of 2003
on Equal Treatment and Promotion of Equal Opportunities¹

The Parliament,
acknowledging every person's right to live as a person of equal dignity, determined to provide effective legal protection to those suffering from negative discrimination, stating that the promotion of equal opportunities is principally the duty of the State, having regard to Articles 54 (1) and 70/A of the Constitution, the international obligations of the Republic and the *acquis communautaire* of the European Union, hereby enacts the following Act:

Chapter I
GENERAL PROVISIONS

Article 1 Pursuant to the principle of equal treatment, according to the provisions of this Act, all private individuals abiding in the territory of the Republic of Hungary and any groups thereof, as well as legal entities and organisations without legal entity, shall be treated with the same respect and deliberation and their special considerations shall be equally respected.

Article 2 Provisions pertaining to the principle of equal treatment set out in separate legal acts, shall be applied in harmony with the provisions of this Act.

Definitions

Article 3 For the purposes of this Act

a) *employment relationship*: employment, public service relationship, civil service relationship, judicial service relationship, legal service relationship, prosecution service relationship, professional and contracted service relationship, professional foster parent relationship;

b) *other relationship aimed at work*: work-from-home relationship, relationship created pursuant to a contract for work, membership in a professional group and elements of the cooperative membership and partnership activities under economic and civil law involving personal contribution and aimed at work;

c) *state subsidy*: grants and subsidies from the budgets of the subsystems of public finances, and the provision in any form of other advantages involving loss of income by the state or state expenditure, also including state guarantees, and funds, donations and grants originating from the European Union, international organisations or other states if they are disbursed via the central budget;

d) *public utility service*: services aimed at satisfying the population's basic needs pursuant to an obligation to enter into contract, especially electricity, gas, heat, water, sewage and waste treatment, public sanitation, postal and

telecommunication services and scheduled public passenger transport services;

e) *NGOs and interest representation organisations*: NGOs or foundations whose objectives set out in the articles of association or statutes include the promotion of equal social opportunities of disadvantaged groups or the protection of human or civil rights; and, in respect of a particular national and ethnic minority, these may be the minority self-governments; while in respect of matters related to employees' material, social and cultural situation and living and working conditions, these may be the trade unions;

f) *relative*: the person defined as such by Paragraph b) of Section 685 of Act IV of 1959 on the Civil Code (hereinafter called: Civil Code) with the exception of fiancés and fiancées.

¹ *Promulgated on: 28.12.2003*

Scope of the Act

Article 4 The principle of equal treatment shall be observed by

a) the Hungarian State,

b) local and minority self-governments and the bodies thereof,

c) organisations exercising powers as authorities,

d) armed forces and law enforcement bodies,

e) public foundations, public corporations, employees' and employers' interest representation organizations

f) organisations performing public utility services,

g) institutions of public education and higher education (hereinafter called collectively: educational institutions),

h) persons and institutions providing social care and child protection services, as well as child welfare services,

i) museums, libraries, general educational institutions,

j) voluntary mutual insurance funds, private pension funds,

k) entities providing health care,

l) parties, and

m) budgetary agencies that do not belong to points a)-l)

in the course of establishing relationships, in their relationships, in the course of their procedures and measures (hereinafter called collectively: relationships).

Article 5 In addition to the entities listed in the above Article 4, the following persons shall observe the principle of equal treatment in respect of the relevant relationships:

a) those who make a proposal to persons not defined preliminarily to enter into contract or those who invite such persons to tender,

b) those who provide services or sell goods at their premises open to customers,

c) self-employed persons, legal entities and organisations without legal entity receiving state subsidies, in respect of their relationships established in the

course of their utilisation of such state subsidies, from the time when the state subsidies are utilised, during the period while the competent authorities may audit the utilisation of the state subsidies in accordance with the regulations applicable to them; and

d) employers in respect of employment relationships, and persons entitled to give instructions in respect of other relationships aimed at work and relationships directly related thereto.

Article 6 (1) The scope of this Act does not extend to

a) family law relationships;

b) relationships between relatives;

c) relationships of ecclesiastical entities directly connected with the activities of the religious life of churches; and

d) when Article 4 of this Act is applied – without any other legal provisions providing to the contrary – relationships in respect of membership between the members of NGOs, legal entities and organisations without legal entity.

(2) Paragraph (1) *d)* shall not be applied in respect of

a) the establishment and cancellation of a membership relationship, and, with the exception of public foundations, the exercise of membership and participation rights in organizations under Article 4 *e)*

b) the relationships of parties, with the exception of the characteristic feature defined in Article 8*j)*.

Article 7 (1) Direct negative discrimination, indirect negative discrimination, harassment, unlawful segregation, retribution and any orders issued for those mean a violation of the principle of equal treatment, particularly as set out in Chapter III.

(2)₂ If this Act does not provide differently, the principle of equal treatment is not violated by such conduct, measure, condition, omission, instruction or practice (hereinafter called collectively: disposition),

a) which limits a basic right of the entity brought into a disadvantageous position in order to enforce another basic right in an unavoidable situation, assuming that such a limitation is suitable for this purpose and is also in proportion to it;

b) which is found by objective consideration to have a reasonable explanation directly related to the relevant relationship in cases not referred to in the above point *a)*.

(3)₃ The above Paragraph (2) shall not be applicable for cases of direct discrimination and unlawful segregation based on the characteristics defined in points *b)*-*e)* of Article 8 below.

Negative discrimination

Article 8₄ All dispositions as a result of which a person or a group is treated or would be treated less favourably than another person or group in a comparable situation because of his/her

a) sex,
b) racial origin,
c) colour,
d) nationality,
e) origin of national or ethnic minority,
f) mother tongue,
g) disability,
h) state of health,
i) religious or ideological conviction,
j) political or other opinion,
k) family status,
l) motherhood (pregnancy) or fatherhood,
m) sexual orientation,
n) sexual identity,
o) age,
p) social origin,
q) financial status,
r) part-time nature or definite term of the employment relationship or other relationship aimed at work,
s) membership in an organisation representing employees' interests,
t) any other status, characteristic feature or attribute (hereinafter collectively: characteristics) are considered direct discrimination.

Article 9⁵ Those dispositions are considered indirect negative discrimination, which are not considered direct negative discrimination and apparently comply with the principle of equal treatment but put any persons or groups having characteristics defined in Article 8 at a considerably larger disadvantage than other persons or groups in a similar situation were or would be.

Harassment, unlawful segregation, retribution

²Established by: Article 1 of Act CIV of 2006; Effective as from: 01.01.2007

³Enacted by: Article 1 of Act CIV of 2006; Effective as from: 01.01.2007

⁴Amended by: Article 13(2)a) of Act CIV of 2006

⁵Amended by: Article 13(2)b) of Act CIV of 2006

Article 10 (1)⁶ Harassment is a conduct of sexual or other nature violating human dignity related to the relevant person's characteristics defined in Article 8 with the purpose or effect of creating an intimidating, hostile, degrading, humiliating or offensive environment around the particular person.

(2)⁷ Unlawful segregation is a conduct that separates individuals or groups of individuals from other individuals or groups of individuals in a similar situation on the basis of their characteristics as defined in Article 8, without any law expressly allowing it.

(3) Retribution is a conduct that causes infringement, is aimed at infringement, or threatens with infringement, against the person making a complaint or initiating procedures because of a violation of the principle of equal treatment, or against a person assisting in such a procedure, in relation to these acts.

Positive discrimination

Article 11 (1) The disposition aimed at the elimination of inequality of opportunities based on an objective assessment of an expressly identified social group is not considered a violation of the principle of equal treatment if

a) it is based on an act, on a government decree based on an act or on a collective contract, effective for a definite term or until a specific condition is met,

b) the election of a party's executive and representative body and the setting up of a candidate at the elections defined at the Act on the Electoral Procedures is executed in line with the party's fundamental rules.

(2) The disposition defined in the above paragraph (1) shall not violate any basic rights, shall not provide unconditional advantages, and shall not exclude the consideration of individual circumstances.

Chapter II

PROCEDURES INITIATED BECAUSE OF A VIOLATION OF THE PRINCIPLE OF EQUAL TREATMENT

Article 12 Claims arising from the violation of the principle of equal treatment can be enforced in the scope of the procedures described in this Chapter, or in separate legal acts, particularly in the scope of lawsuits under personal law, lawsuits under labour law, as well as procedures by the consumer protection, labour or offence authorities.

Procedure in the case of a breach of this Act

Article 13 (1)⁶ Compliance with the obligations of equal treatment is overseen by a public administration body (hereinafter called: Authority).

(2)⁹

(3) The Authority shall not be instructed in relation to exercising its duties defined in this Act.

(4)¹⁰ The budget of the Authority forms an independent title within the budgetary chapter of the Minister overseeing its operation.

Article 14 (1) The Authority

⁶ Amended by: Article 13(2)c) of Act CIV of 2006

⁷ Established by: Article 2 of Act CIV of 2006; Effective as from: 01.01.2007

⁸ Amended by: Article 2(3)k) of Act CIX of 2006

⁹ Repealed by: Article 2(3)k) of Act CIX of 2006; Not effective as from: 01.01.2007

¹⁰ Established by: Article 65 of Act XXVI of 2005; Effective as from: 01.01.2007

a¹¹) shall, at request or in cases defined herein, conduct *ex officio* investigations to establish whether the obligations of equal treatment have been violated, and shall also conduct investigations at request to establish whether the employers obliged to do so have approved an equal opportunities plan, and shall finally make decisions on the basis of the investigations;

b)¹² pursuant to the right of *actio popularis*, may initiate a lawsuit with a view to protecting the rights of persons and groups whose rights have been violated;

c)¹³ shall comment on drafts of legal acts, other legal instruments of public administration, as well as reports concerning equal treatment;

d) shall make proposals concerning governmental decisions and legislation pertaining to equal treatment;

e) shall regularly inform the public and the Government about the situation concerning the enforcement of equal treatment;

f) in the course of performing its duties, shall co-operate with the NGOs and interest representation organisations and the relevant government agencies;

g) shall continually provide information to those concerned and provide assistance in acting against the violation of equal treatment;

h) shall assist in the preparation of governmental reports to international organisations, particularly to the Council of Europe concerning the principle of equal treatment;

i) shall assist in the preparation of the reports for the Commission of the European Union concerning the harmonisation of directives on equal treatment;

j¹⁴) shall report to the Government annually on the activities of the Authority and its experiences obtained in the course of the application of this Act.

(2)¹⁵

(3)¹⁶

Article 15 (1) A violation of the principle of equal treatment within the scope of this Act shall be investigated by

a) the Authority or

b) another public administration body that has been granted authority in a separate act for assessing violations of the principle of equal treatment, as chosen by the offended party.

(2)¹⁷ The Authority shall inform the public administration body granted authority by a separate act, and this public administration body shall inform the Authority, about the instigation of the procedure, its legally effective completion, as well as any legally effective judgement made in the course of a court review of the decision made.

(3)¹⁸ If a procedure has been instigated at any public administration body pursuant to the above Paragraph (1), then in the same matter other public administration bodies

a) shall not conduct any procedure in the case of a violation of law committed against the same person,

b) shall suspend their procedure instigated in the case of a violation of law committed against another person until a binding judgement is made in the matter.

(4)¹⁸ If the matter has been judged by any public administration body, then in the same matter other public administration bodies

a) shall not conduct any procedure in the case of a violation of law committed against the same person,

b) shall proceed using the facts of the case established in the binding decision in its procedure in the case of a violation of law committed against another person.

¹¹ Established by: Article 3 of Act CIV of 2006; Effective as from 01.01.2007

¹² Amended by: Article 13(2)d) of Act CIX of 2006

¹³ Amended by: Article 13(2)e) of Act CIX of 2006

¹⁴ Amended by: Article 13(2)f) of Act CIX of 2006

¹⁵ Repealed by: Article 339.31 of Act LXXXIII of 2005; Not effective as from: 01.11.2005

¹⁶ Repealed by: Article 13(3) of Act CIV of 2006; Not effective as from: 01.01.2007; See also: Article 13(6) of the same Act

¹⁷ Amended by: Article 13(2)g) of Act CIV of 2006

¹⁸ Amended by: Article 338.13 of Act LXXXIII of 2005

(5) The Authority shall also proceed *ex officio* in cases where the principle of equal treatment is violated by the bodies defined in Article 4a)-d) if there are no procedures underway in the particular matter at any other public administration body.

(6) The Authority shall not investigate decisions and measures of public power by the Parliament, the President of the Republic, the Constitutional Court, the State Audit Office, the Parliament commissioner of civil rights, the Parliament commissioner of national and ethnic minority rights, the Parliament commissioner of data protection, the courts and the public prosecution.

(7) The Authority may participate as an intervener in the court review of a public administrative decision made by another public administrative body concerning the principle of equal treatment.

(8)¹⁹ In the course of a procedure instigated at request, the other procedural costs are advanced by the Authority, while the costs occurring in connection with his/her/its participation in the procedure shall be advanced by the party drawn under the procedure, i.e. the party having an interest opposing that of the offended party.

(9)⁴ If the request is rejected, the offended party shall bear the other procedural costs only if the Authority establishes that he/she acted in bad faith.

Article 15/A²⁰ (1) If the offended party or the person entitled to an *actio popularis* instigated a court procedure because of the violation of the obligations of equal treatment pursuant to this Act, the Authority or any other public administration body defined in Article 15(1)*b*) shall suspend its procedures until a legally binding judgement is made regarding the case.

(2) The Authority or the other public administration body shall send its order made following from the application of the above Paragraph (1) to the court.

(3) The court shall send its legally binding judgement regarding the violation of the principle of equal treatment pursuant to this Act to the Authority, as well as to any other public administration body determined in Article 15(1)*b*) having suspended its procedure having been conducted previously.

(4) In the course of its procedures regarding the same violation of the law, following the receipt of the court judgement, the Authority or any other public administration body determined in Article 15(1)*b*) shall act on the basis of the facts of the case as established in the judgement.

(5) When the court judgement becomes effective, regarding the same act of violation of the principle of equal treatment pursuant to this Act, within the confines of any public administration body,

a) no procedure shall be instigated because of the violation of law committed against the same person,

b) in the case of a violation of law against another person, the Authority or any other public administration body determined in Article 15(1)*b*) shall act on the basis of the facts of the case as established in the court judgement.

Article 15/B²⁰ (1) The Authority shall immediately delete all personal and special data, the management of which is not absolutely indispensable for exercising its powers following from Article 14(1)*a*)-*b*).

(2) At request, the person drawn under procedure shall provide all the documents and data stored in an electronic data carrier related to the particular case, and shall also ensure that all the facts, circumstances and other conditions necessary for the checking of the violation of the principle of equal treatment are made known. The party shall not be obliged to prepare such records and/or summaries which are not stipulated by laws or regulations, if their preparation required disproportionate efforts.

¹⁹ Enacted by: Article 4 of Act CIV of 2006; Effective as from: 01.01.2007

²⁰ Enacted by: Article 5 of Act CIV of 2006; Effective as from: 01.01.2007

(3) Based on Paragraph (2), the Authority may only request the provision of such special data, the management of which is indispensable for the purposes of the procedure, and without which the success of the procedure could not be ensured.

(4) In the course of an official public administration procedure, the Authority is entitled to seize the records or database, which include the personal data as inspection exhibits.

Article 16 (1) If the Authority has established that the provisions ensuring the principle of equal treatment laid down herein have been violated, they may

- a) order that the situation constituting a violation of law be eliminated,
- b)²¹ prohibit the further continuation of the conduct constituting a violation of law,
- c)²¹ order that its decision establishing the violation of law be published,
- d) impose a fine,
- e) apply a legal consequence determined in a special act.

(2) The legal consequences set out in Paragraph (1) shall be determined taking into consideration all circumstances of the case, with particular regard to those who have been effected by the violation of law, the consequences of the violation of law, the duration of the situation constituting a violation of law, the repeated demonstration of conduct constituting a violation of law and the financial standing of the person or entity committing such a violation.

(3) The legal consequences set out in Paragraph (1) can also be applied collectively.

(4)²² The amount of the fine imposed in accordance with Paragraph (1)d) may vary from HUF fifty thousand to HUF six million.

(5)²³ If the Authority established that an employer obliged to approve an equal opportunities plan had failed to do so, it shall call upon the employer to rectify the omission and, with an appropriate application of Paragraphs (2)-(4), the Authority may apply the legal consequences defined in Paragraph (1)c)-e).

Article 17 (1) The decisions of the Authority shall not be appealed against in the scope of a public administration procedure.

(2) The interim decisions of the Authority during the procedure concerning the violation of the principle of equal treatment cannot be altered or annulled by supervisory powers.

(3) The judicial review of decisions of the Authority falls within the scope of authority and the exclusive competence of the Metropolitan Court.

(4)²⁶ The Metropolitan Court shall take the necessary actions via a panel comprised of three professional judges, if the party concerned requests so in a statement of claim, or the Authority requests so in a statement of its own relating to the contents of the statement of claim.

17/A.§ (1) In order to prove compliance with the obligation of equal treatment in the course of procedures conducted by other bodies or agencies, the Authority keeps official records, which include the data of employers in relation to whom the legally effective and executable decision of the Authority, respectively, in case of judicial review of the Authority's decision, the legally effective decision of the court established the fact of violation of law. The records include:

- a) the name, registered seat and tax identification number of employers, as well as the name, address of domicile and tax identification code of such private individual employers that have not got a tax identification number,

b) the date and number of the decision establishing the fact of violation of law, and the date of effectiveness and executability,

c) a description of the violation of law,

d) the applied legal consequence with a reference to the underlying legal provision,

e) in case of judicial review, the date and number of the effective and executable court decision, the effective date and the essence of the court's ruling concerning the challenged administrative decision (annulment, annulment and ordering to reopen the case or dismissing the claim).

(2) The Authority manages the data included in its records within the IT system established by the Authority. The data defined in the above Paragraph (1) are recorded in the IT database by the Authority at the effective and executable date, while in the case of a judicial review of the administrative decision, at the date when the Authority becomes aware of the court's decision.

(3) The Authority shall purge the data included in its records and published on its homepage after the expiration of two years reckoned from the effective and executable date of the decision serving as a basis for recording the data.

(4) Based on the data kept in its own records, and with the exception of subsection (6), the Authority shall publish on its homepage the data listed in subsection (1) point a)-d) – and point e) in case of judicial review if the court dismissed the claim or changed the administrative decision – of the employers, having committed an identical violation of the law again and therefore having been fined in relation to the obligation of equal treatment within a period of two years with effective and executable administrative or court decision, if the identical and repeated violation of law has been established in an effective and executable administrative decision in accordance with Article 15 (7) b) of the Act XXXVIII on public finances. In relation to this provision, the executable date of the decision shall be understood as in the Administrative Procedure Code (Ket.), with the publication of the data in case of a judicial review commencing on the basis of the legally effective court decision.

(5) In relation to subsection (4), in case of an employer with more premises, the repeated and identical violation of law shall be understood as a violation of law at the same site within a two years' period established by a legally effective and executable decision.

(6) If the Authority becomes aware that a judicial review of its decision was initiated

a) it publishes the data listed in subsections (4) and (5) respecting the effective and executable decision of the court,

b) and the data listed in subsections (4) and (5) has already been published, it takes action to delete the published data.

Advisory Board of Equal Treatment²⁹

Article 17/B²⁹ (1) In performing its duties defined in Article 14(1), the Authority is assisted by an Advisory Board of Equal Treatment (hereinafter called: Board).

(2) The Board assists the Authority in performing its duties defined in Article 14(1)a)-b) by offering interpretations of certain provisions of this Act. These interpretations are not binding for the Authority in the course of its procedures.

(3) For the approval by the Authority of the opinions, reports and recommendations made on the basis of Article 14(1)d)-e) and h)-i) the consent of the Board is also necessary.

(4) The head of the Authority allows the members of the Board to examine the documents held by the Authority to the extent it is necessary for performing their duties. The members of the Board may have knowledge of the personal data included in the documents held by the Authority in a form which is unsuitable for unique identification.

Article 17/C²⁹ (1) The Minister responsible for the promotion of equal social opportunities shall make a recommendation for three positions within the Board members, while the Minister responsible for justice shall make a recommendation for three further positions, both to the Prime Minister. Regarding the persons to be recommended for the positions within the Board members, the recommending Ministers shall have a preliminary, joint consultation with the bodies and organisations involved in the implementation of the principle of equal treatment.

(2) The assignment may be given only to such persons who have a clean record, who are eligible voters at any elections pursuant to the Act on Electoral Procedure, and who have outstanding experiences in the protection of human rights and within the area of the enforcement of the obligations of equal treatment.

(3) Such persons shall not be invited to the members of the Board, who at the time of the invitation or within two years preceding the invitation were Members of Parliament, members of the Government, state secretaries, employees or officers of parties.³⁰

(4) The assignment of the Board's member shall begin with the acceptance of the invitation to the position and shall be valid for six years.³¹

(5) The assignment of the Board's member shall terminate if

²⁸ See Article 16 of Act LXV of 2006

²⁹ Enacted by: Article 8 of Act CIV of 2006; Effective as from: 01.01.2007

³⁰ See: Article 13(7) of Act CIV of 2006

³¹ See: Article 13(6) of Act CIV of 2006

- a) he/she renounces his/her position,
- b) the term of the assignment expires,
- c) he/she is relieved of his/her duties,
- d) he/she deceases.

(6) At the recommendation of the Minister having made the recommendation for a particular person, the Prime Minister shall relieve of his/her duties that member of the Board,

- a) who is unable to perform his/her duties following from the Board membership for a period longer than one-hundred and eighty days due to circumstances beyond his/her control,
- b) who does not perform his/her duties following from the Board membership for a period longer than ninety days due to reasons attributable to him/her,
- c) whose delinquency in a deliberately committed crime has been established by court with a legal effect,

d) who does not meet the requirements defined in Paragraph (3) due to circumstances having occurred following his/her invitation.

(7) The Prime Minister shall establish the existence of the conditions defined in Paragraph (6)a)-b) and d).

(8) No statement of acceptance is necessary for the validity of the renouncement.

(9) The new member shall be appointed within thirty days following the termination of the assignment of the Board member, while in the case the termination was due to the reasons listed in Paragraph (5)b), the new member shall be appointed by the thirtieth day preceding the termination.

(10) In the course of performing their duties, the Board members are independent, they may not be instructed within the scope of their duties defined in this Act.

Article 17/D³² (1) The Board shall elect a Chairman from among its own members. If the Chairman is prevented from performing his/her duties, the member designated by the Chairman shall be fully authorized to act on behalf of him/her.

(2) The Chairman of the Board convenes and conducts the Board meetings, and also performs the tasks related to preparation of the Board decisions, as well as their implementation.

(3) The Board shall pass its decisions with the majority votes of all its members. In the case of an even number of votes, the vote of the Chairman shall decide.

(4) The detailed rules and regulations of the operation of the Board are included in its statutes.

(5) The secretarial duties related to the operation of the Board shall be performed by the Authority.

Representation

Article 18 (1)³³ Unless otherwise stipulated by the law, the NGOs and interest representation organisation, as well as the Authority may act as a representative authorised by the party who suffered a violation of law in procedures instigated because of a violation of the principle of equal treatment.

(2) In a public administration procedure instigated because of the violation of the principle of equal treatment, the NGOs and interest representation organisations are entitled to the rights of the party.

Burden of proof

³² Enacted by: Article 8 of Act CIV of 2006; Effective as from: 01.01.2007

³³ Amended by: Article 63(2) of the same decree

Article 19 (1) In procedures instigated because of a violation of the principle of equal treatment, the injured party or the party entitled to an *actio popularis* must render it probable that³⁴

a)³⁴ the injured person or group has suffered a disadvantage, or in the case of an *action popularis*, there is a direct danger of such a disadvantage, and
b) the injured party or group - actually or as assumed by the offending party - possessed any of the characteristics defined in Article 8 at the time of the violation of law

(2)³⁵ If the case described in Paragraph (1) has been rendered probable, the other party shall prove that

a) the circumstances rendered probable by the injured party or by the entity entitled to an *actio popularis* did not prevail, or
b) he/she/it did observe the principle of equal treatment, or that he/she/it was not obliged to observe the principle of equal treatment in respect of the relevant relationship.

(3) The provisions set out in Paragraphs (1)-(2) shall not apply to criminal procedures and to procedures of minor offences.

Actio popularis

Article 20 (1)³⁶ A lawsuit under personal or labour law because of a violation of the principle of equal treatment before the court may be instigated by

a) the Public Prosecutor,
b) the Authority, or

c) NGOs and interest representation organisations,

if the violation of the principle of equal treatment or a direct threat of the violation was based on such a characteristic that is an essential feature of the individual, and the violation of law or a direct threat of the violation affects a larger group of persons that cannot be determined accurately.

(2)³⁷ If the conditions defined in Paragraph (1) exist, NGOs and interest representation organisations may instigate a procedure at the Authority.

Chapter III

ENFORCEMENT OF THE PRINCIPLE OF EQUAL TREATMENT IN VARIOUS SITUATIONS

Employment

Article 21 It is considered a violation of the principle of equal treatment in particular if the employer inflicts direct or indirect negative discrimination upon an employee, especially when the following dispositions are defined or applied:

a) for access to work, especially in public job advertisements, hiring, and regarding the conditions of employment;

- b) for a disposition made before the establishment of the employment relationship or other relationship related to work, related to the procedure facilitating the establishment of such a relationship;
- c) in establishing and terminating the employment relationship or other relationship related to work;
- d) in relation to any training before or during the work;
- e) in determining and providing working conditions;

³⁴ Amended by: Article 13(2)h) of Act CIV of 2006

³⁵ Established by: Article 9 of Act CIV of 2006; Effective as from: 01.01.2007

³⁶ Amended by: Article 13(2)i) of Act CIV of 2006

³⁷ Established by: Article 10 of Act CIV of 2006; Effective as from: 01.01.2007

- f)³⁸ in establishing and providing allowances due on the basis of the employment relationship or other relationship related to work, particularly in establishing and providing wages/salaries defined in Article 142/A(3) of Act XXII of 1992 on the Labour Code;
- g) in relation to membership or participation in employees' organisations;
- h) in the promotion system;
- i) in the enforcement of a liability for damages or of a disciplinary liability.

Article 22 (1)³⁹ The principle of equal treatment shall not be considered violated if

- a) the discrimination is proportional, justified by the characteristics or nature of the work and is based on all relevant and legitimate terms and conditions considered during the hiring, or
- b) the discrimination arises directly from a religious or other ideological conviction or national or ethnic origin fundamentally determining the nature of the organisation, and it is proportional and justified by the nature of the employment activity or the conditions of its pursuit.

(2)⁴⁰ During the application of the provisions of Article 21f), any direct negative discrimination in relation to the characteristics defined in Article 8a)-e) shall always violate the obligations of equal treatment.

Article 23 An act, a government decree based on an act or a collective contract may order an obligation for positive discrimination for a specified group of employees in respect of the employment relationship or other relationship aimed at work.

Social security and health care

Article 24 The principle of equal treatment shall be enforced in respect of social security, particularly in the course of claiming and ensuring

- a) benefits financed from the social security systems, and
- b) social benefits, financial and in-kind child protection or personal care.

Article 25 (1) The principle of equal treatment shall be enforced in respect of health care, particularly in respect of the provision of health services, including

- a) participation in preventive programmes and medical check-ups,
- b) preventive medical care,
- c) use of premises for residence,
- d) the satisfaction of dietary and other needs.

(2) Based on health, disability or any characteristic defined in Article 8, a law or a government decree pursuant to an authorisation by law may grant additional benefits to specified groups of the society within the framework of the social and health care system, in accordance with the provisions of this Act.

Housing

Article 26 (1) It is a particular violation of the principle of equal treatment when, because of his/her characteristics defined in Article 8, a person is

- a) inflicted with direct or indirect negative discrimination in respect of the granting of housing subsidies, benefits, interest subsidies by the state or a municipality,
- b) put in a disadvantageous position in determining the conditions of sale or leasing of state owned or municipal housing and plots.

³⁸ *Established by: Article 11 of Act CIV of 2006; Effective as from: 01.01.2007*

³⁹ *Numbering amended by: Article 11(2) of Act CIV of 2006*

⁴⁰ *Enacted by: Article 11(2) of Act CIV of 2006; Effective as from: 01.01.2007*

(2) The issue of occupancy and other building permits by the relevant authorities may not be denied or tied to any conditions based directly or indirectly on characteristics defined in Article 8.

(3) The conditions of access to housing shall not be determined with the aim of artificially separating any particular groups based on characteristics defined in Article 8 to any settlement or part thereof, and not based on the group's voluntary decision.

Education and training

Article 27 (1) The principle of equal treatment extends to any care, education and training

- a) carried out in accordance with requirements approved or ordered by the State, or
- b) whose organisation is supported by the State
 - ba) by direct normative budgetary subsidy, or
 - bb) indirectly, especially by releasing or clearing taxes or by tax credit (hereinafter called collectively: education).

(2) The principle of equal treatment shall be enforced in relation to education defined in Paragraph (1), particularly in

- a) determining the conditions of joining education and assessing applications,
- b) defining and setting the requirements for education,
- c) performance evaluation,
- d) providing and using services related to education,
- e) access to benefits related to education,
- f) accommodation and provisions in dormitories,
- g) issuing certificates, qualifications and diplomas obtainable in education,
- h) access to vocational guidance and counsel, and
- i) in the termination of the relationship related to participation in education.

(3) The principle of equal treatment is especially violated if a person or group is

- a) unlawfully segregated in an educational institution, or in a division, class or group within such an educational institution,
- b) limited to a care or educational system, or such a care or educational system or institution is created or maintained whose standards do not reach the accepted professional requirements or do not comply with the professional rules, and thus do not ensure a reasonably expectable opportunity to prepare or get prepared for state exams.

(4) Educational institutions shall not have groups pursuing extracurricular activities, pupil or student societies and other organisations of pupils, students or parents whose objectives are to discredit, stigmatise or exclude other individuals or groups.

Article 28 (1) If the education is organised only for students of one sex, it does not violate the principle of equal treatment, provided that the participation in such an education is voluntary, and will not result in any disadvantages to the participants.

(2) The principle of equal treatment is not violated if,

- a) in public education, at the initiation and by the voluntary choice of the parents,
- b) in institutions of higher education, by the students' voluntary participation, such education based on religious or other ideological conviction, or education for ethnic or other minorities is organised whose objective or programme justifies the creation of segregated classes or groups; provided that this does not result in any disadvantage for those participating in such an education, and the education complies with the requirements approved, laid down and subsidised by the State.

(3) Any legal act may divert from the provisions of Article 27(2)a) in respect of educational institutions serving the protection of linguistic or cultural identity, or in respect of educational institutions of churches, ethnic, national or other minorities.

Article 29 A government decree created pursuant to the law or the authorisation thereof may order an obligation to give positive discrimination to a specified group of participants in education within or outside the school system in respect of education or training.

Sale of goods and use of services

Article 30 (1) It is considered a particular violation of the principle of equal treatment if at premises open to customers, particularly in catering, commercial, cultural and entertainment establishments, and based on a characteristic defined in Article 8,

a) the provision of services or sale of goods is denied or neglected,

b) the services provided and goods sold are not of the same quality as those normally available at the particular premises,

c) a notice or sign is displayed implying that a certain individual or individuals are excluded from the provision of services or sale of goods at the premises.

(2) Entry into premises established for a group defined by characteristics defined in Article 8 for the purposes of preserving traditions or maintaining cultural or self identity and open to the immediate public may be limited or subject to membership or specific conditions.

(3) The limitation in accordance with Paragraph (2) must be obvious from the name of the establishment and the circumstances of the use of the service; and this shall not be done in a manner humiliating and defamatory to individuals who do not belong to the particular group, and further it must not provide an opportunity for abusing the law.

Article 30/A (1) In the provision of insurance services or services based on the principle of insurances, differences in treatment based on gender do not constitute discrimination, if

a) the risk-proportionate level of the service and the premium entails the establishment of definite groups based on risk factors, and

b) the use of gender is a key factor in the assessment of risk based on relevant and accurate actuarial and statistical data.

(2) Differences in treatment based on costs in connection with pregnancy and motherhood constitute a violation of equal treatment notwithstanding subsection (1).

Chapter IV⁴¹

Articles 31-36⁴¹

Chapter V⁴¹

Articles 37-62⁴²

Chapter VI

CLOSING PROVISIONS

Article 63 (1) With the exception set out in Paragraph (2)-(3), this Act shall come into force on the 30th day following its promulgation.

(2) Articles 13-17, the text “, and the Authority” in Article 18(1), and Article 20(1)b) of this Act shall come into force on 1 January 2005.

(3) Articles 31-34 of this Act shall come into force on 1 January 2004.

(4)⁴³ Budgetary organisations employing more than fifty persons, as well as legal entities in which the state has a majority ownership are obliged to draw up an equal opportunities plan.

(5)⁴⁴ Municipal governments may devise a local equal opportunities programme, which serves for the analysis of the state of affairs of the disadvantaged groups living in the particular settlement and in which the municipal government defines the objectives promoting equal opportunities for these groups, with a particular attention to housing, education, health care, employment and social status. The local equal opportunities programme shall define the size of funds required for the implementation of the set objectives, a schedule of implementation. The municipal government shall approve a report on the actual completion of the implementation schedule by June 30 of the year following the subject year.

Article 64⁴⁵ The Government is granted powers to designate the Authority or authorities and to lay down the detailed rules applicable to the procedures of the Authority in a decree.⁴⁶

⁴¹ Repealed by: Article 13(3) of Act CIV of 2006; Not effective as from: 01.01.2007

⁴² Repealed by: Article 13(3) of Act CIV of 2006; Not effective as from: 01.01.2007; Article 54(2) is also repealed

by Article 43(11)m) of Act CXV of 2006; Not effective as from: 01.01.2007

⁴³ Established by: Article 12(1) of Act CIV of 2006; Effective as from: 01.01.2007

⁴⁴ Established by: Article 12(2) of Act CIV of 2006; Effective as from: 01.01.2007

⁴⁵ Amended by: Article 2(1)a) of Act CIX of 2006

⁴⁶ See: Government Decree 362/2004 (XII.26.)

Article 65 This Act contains regulation in harmony with the provisions concerning law approximation of the Europe Agreement establishing an association between the European Communities and their Member States on the one part and the Republic of Hungary on the other part, signed in Brussels on 16 December 1991 and promulgated by Act I of 1994, compatible with the following legal acts of the European Communities:

a) Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion and working conditions and Council Directive 2002/73/EC amending the above Directive,

b) Council Directive 79/7/EEC on the progressive implementation of the principle of equal treatment for men and women in matters of social security,

c) Council Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes,

d) Council Directive 86/613/EEC on the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity and on the protection of self-employed women during pregnancy and motherhood,

- e) Council Directive 97/80/EC on the burden of proof in cases of discrimination based on sex,
- f) Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin,
- g) Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation.