

Act CXXV of 2003
on equal treatment and the promotion of equal opportunities

The National Assembly,
recognising the right of every individual to live as a person of equal dignity,
resolved to provide efficient protection for the rights of victims of discrimination,
declaring that the promotion of equal opportunities and social inclusion is, primarily, the
responsibility of the state,
having regard to Articles II and XV of the Fundamental Law, the international obligations
of the Republic, and the Community *acquis*,
adopts the following Act:

Chapter I

GENERAL PROVISIONS

Section 1 According to the principle of equal treatment, the same respect and
circumspection shall be exercised and individual aspects shall be taken into account to the
same extent regarding natural persons, groups of natural persons, legal persons, and
organisations without legal personality, staying within the territory of Hungary, pursuant to
the provisions of this Act.

Section 2 The provisions laid down in separate laws with regard to the principle of equal
treatment shall be applied in compliance with the provisions of this Act.

Definitions

Section 3 (1) For the purposes of this Act,

a) occupational relationship means employment relationship, public service relationship,
government service relationship, public employment relationship, tax and customs authority
service relationship, law enforcement administrative service relationship, defence
employment relationship, court service relationship, service relationship of judicial
employees, prosecution service relationship, professional and contractual relationship,
foster parent occupational relationship, or a relationship established between a temporary-
work agency and a temporary agency worker based on labour hire as defined in the Act on the
Labour Code;

b) other employment-related relationship means an outworkers' relationship, a legal
relationship established on the basis of a contract to produce a work or an agency contract
aimed at the performance of work, a membership in a specialised group, and the work-related
aspects of a membership in a cooperative or of company and civil law association activities
involving personal assistance,

c) state aid means the provision of funds, for free or with favourable terms, or other
advantages from the budget of the subsectors of the general government in any form, so that it
constitutes expenditure or a loss of revenue on the side of the state, including the provision of
a state guarantee, as well as funds, donations, and aids provided by the European Union, an
international organisation, or another state, provided that they are disbursed through the
central budget;

d) public service means a service provided under an obligation to contract aiming to satisfy the fundamental needs of the population, in particular the provision of electricity, natural gas, heat, water, waste water and waste treatment, sanitation, postal, and telecommunication services, and public passenger transport provided by scheduled vehicles;

e) non-governmental and representative organisation means a non-governmental organisation, as defined in the Act on the right of association, the public-benefit status and the operation of and support to non-governmental organisations, the objectives of which, as stated in the articles of association or deed of foundation, include the promotion of equal opportunities in society for, and social inclusion of, disadvantaged groups defined by the precise description of a protected characteristic, or the protection of human and civil rights defined by the precise description of a protected characteristic; furthermore, a national minority self-government with regard to the national minority concerned, or a trade union in matters relating to financial, social, cultural, living and working conditions of employees;

f) relative means a spouse, a registered partner, a lineal relative, an adopted, step or foster child, an adoptive, step or foster parent, a sibling, a cohabitant, or the spouse or registered partner of a lineal relative, a lineal relative or sibling of a spouse or registered partner, or the spouse or registered partner of a sibling;

g) applicant means a natural or legal person, or an organisation without legal personality, who or which applied for the establishment of a violation of the principle of equal treatment, or who or which would have been eligible to do so and is considered to be a party to the proceeding,

h) investigated person means a natural or legal person, or an organisation without legal personality, against whom or which a proceeding is conducted to establish a violation of a provision enforcing the principle of equal treatment,

i) infringer means a natural or legal person, or an organisation without legal personality, with regard to whom or which a violation is established by the Authority as a result of a proceeding conducted to establish a violation of a provision enforcing the principle of equal treatment.

(2) For the purposes of this Act, employer means also the user undertaking in labour hire.

Scope of the Act

Section 4 The principle of equal treatment shall be observed by

- a) the Hungarian State,*
- b) local and national minority self-governments and their organs,*
- c) organisations exercising official authority,*
- d) the Hungarian Defence Forces and law enforcement organs,*
- e) public foundations, statutory professional bodies, and employees' and employers' representative organisations,*
- f) organisations providing public services,*
- g) public upbringing institutions, vocational training institutions and institute of higher education (hereinafter jointly "educational institution"),*
- h) persons and institutions providing social and child protection care, and child welfare services,*
- i) museum institutions, libraries, and institutions of community culture,*
- j) voluntary mutual insurance funds, private pension funds,*
- k) healthcare service providers,*
- l) political parties, and*
- m) budgetary organs not covered by points a) to l)*

in the course of establishing legal relationships, in their legal relationships, and in the course of their proceedings, and taking measures (hereinafter jointly “legal relationship”).

Section 5 In addition to the provisions laid down in section 4, the principle of equal treatment shall be observed, with regard to the given legal relationship, by

a) anyone who makes a contract offer to persons not identified in advance, or invites such persons to make an offer,

b) anyone who provides services or goods in his premises open for customers,

c) private entrepreneurs, legal persons, and organisations without legal personality receiving state aid, with regard to their legal relationships established in the course of the use of the state aid, during the period between the use of the state aid and the date until which the use of the state aid may be reviewed by the competent organ pursuant to the applicable provisions, and

d) employers with regard to occupational relationships, and persons with instruction power with regard to other employment-related relationships, and both with regard to other directly related legal relationships.

Section 6 (1) The scope of this Act shall not cover the following:

a) legal relationships under family law,

b) legal relationships between relatives,

c) legal relationships of religious communities directly related to their faith-based activities, and

d) in the application of section 4 of this Act and unless otherwise provided by law, membership-related legal relationships between members of associations, legal persons, and organisations without legal personality.

(2) Paragraph (1) *d)* shall not apply to

a) the establishment and termination of a membership, and the exercise of membership and participation rights concerning organisations mentioned in section 4 *e)*, with the exception of public foundations, and

b) the legal relationships of political parties, with the exception of the characteristic specified in section 8 *j)*.

Section 7 (1) Direct discrimination, indirect discrimination, harassment, segregation, victimisation, and any instruction given to that effect shall constitute a violation of the principle of equal treatment as provided for, in particular, in Chapter III.

(2) Unless otherwise provided in this Act, a conduct, measure, criterion, omission, instruction, or practice (hereinafter jointly “provision”) shall not constitute a violation of the principle of equal treatment if

a) it limits a fundamental right of the party suffering the disadvantage in an inevitable situation with the objective of enforcing another fundamental right, provided that the limitation is appropriate for achieving, and proportionate to, that objective,

b) in a situation not covered by point *a)*, it is justified by a reasonable ground that is directly related to the legal relationship concerned, as confirmed by objective assessment.

(3) Paragraph (2) shall not apply to direct discrimination and segregation based on a characteristic specified in section 8 *b)* to *e)*.

Discrimination

Section 8 A provision shall constitute direct discrimination if, as a result of it, a person or group is treated less favourably than another person or group in a comparable situation is, has been or would be treated on grounds of any of the following characteristics, whether actual or presumed:

- a) sex,
- b) race,
- c) colour,
- d) nationality,
- e) membership of a national minority,
- f) language,
- g) disability,
- h) state of health,
- i) religion or belief,
- j) political or other opinion,
- k) family status,
- l) motherhood (pregnancy) or fatherhood,
- m) sexual orientation,
- n) gender identity,
- o) age,
- p) social origin,
- q) property,
- r) part-time or fixed-term nature of the occupational relationship or other employment-related relationship,
- s) membership in a representative organisation,
- t) any other status, characteristic, or attribute (hereinafter jointly “characteristic”).

Section 9 A provision that does not constitute direct discrimination and apparently complies with the principle of equal treatment shall constitute indirect discrimination if it puts, to a considerably higher extent, certain persons or groups bearing a characteristic specified in section 8 in a position more disadvantageous than that in which another person or group in a comparable situation is, has been, or would be.

Harassment, segregation, victimisation

Section 10 (1) A conduct of sexual or other nature that violates human dignity shall constitute harassment if it is related to a characteristic specified in section 8 of the person concerned and has the purpose or effect of creating an intimidating, hostile, degrading, humiliating or offensive environment for a person.

(2) A provision shall constitute segregation if it separates, without the explicit permission of an Act, certain persons or a group of certain persons from other persons or the group of persons in a comparable situation on the ground of a characteristic specified in section 8.

(3) A conduct shall constitute victimisation if it causes, is aimed at causing, or threatens to cause injury to a person in relation to that person’s raising a complaint, launching a proceeding, or participating in such a proceeding because of the violation of the principle of equal treatment.

Positive action

Section 11 (1) A provision shall not constitute a violation of the principle of equal treatment if it is aimed at eliminating the inequality of opportunities, on the basis of objective assessment, concerning a specifically designated social group, provided that

a) it is based on an Act, a government decree issued on the basis of authorisation by an Act, or a collective agreement, and it is for a fixed term or until a specific condition is met, or

b) it is applied pursuant to the statutes of a political party in the course of electing the managing or representative body of the political party concerned, or in the course of naming candidates for elections pursuant to the Act on electoral procedure.

(2) A provision mentioned in paragraph (1) may not violate any fundamental right, grant any unconditional advantage, or exclude the assessment of individual aspects.

Chapter II

PROCEEDINGS INSTITUTED FOR VIOLATION OF THE PRINCIPLE OF EQUAL TREATMENT

Section 12 Claims arising from violations of the principle of equal treatment may be enforced in proceedings defined in this Chapter and in separate laws, in particular in actions for the enforcement of personality rights, labour law actions, actions concerning public service relationships, and proceedings by the consumer protection authority, employment supervisory authority, and infraction authority.

Specific rules concerning the implementation of the principle of equal treatment

Section 13 (1) The Commissioner for Fundamental Rights (hereinafter “the Authority”) shall proceed in the cases specified in this Act in accordance with the administrative authority procedure.

(2) The Budapest-Capital Regional Court shall have territorial jurisdiction over administrative actions brought against the decisions taken by the Authority under this Act. Legal representation shall be mandatory in the court action.

Section 14 (1) The Authority

a) shall conduct an investigation, on the basis of an application or, in cases specified in this Act, *ex officio*, to establish if the principle of equal treatment has been violated, and it shall carry out an investigation, on the basis of an application, as to whether or not employers who were required to do so adopted an equal opportunities plan, and take a decision based on the investigation;

b) may bring actions, by exercising its right to enforce claims in the public interest, in defence of the rights of aggrieved persons and groups;

c) shall give opinions on drafts of laws, public law regulatory instruments, and reports concerning equal treatment;

d) shall present proposals for government decisions and legal regulations concerning equal treatment;

e) shall inform the public and the National Assembly regularly on the situation concerning the implementation of the principle of equal treatment;

f) shall, in carrying out its tasks, cooperate with non-governmental and representative organisations, and the state organs concerned;

g) shall provide continuous information and assistance for all persons concerned to take action against violations of the principle of equal treatment;

h) shall contribute to the preparation of government reports for international organisations, in particular the Council of Europe, regarding the principle of equal treatment;

i) shall contribute to the preparation of reports for the Commission of the European Union regarding the harmonisation of directives concerning equal treatment.

j) shall, with the exception specified in a government decree, carry out the tasks of an enforcement body defined in Article 14 of Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air.

(2) With a view to keeping the public informed, the Authority shall publish its reports, proposals, and detailed information concerning its operations on its website regularly.

(3) The Authority shall not review any public decision or measure taken by the National Assembly, the President of the Republic, the Constitutional Court, the State Audit Office, or a court or prosecution service.

(4) The administrative time limit in a proceeding shall be seventy-five days.

(5) Where the vulnerable interests of a minor party so require, the Authority shall decide as a matter of priority, and in any event within forty-five days.

Section 15 (1) The investigation of a violation of the principle of equal treatment shall be carried out, at the choice of the aggrieved party, by

a) the Authority or

b) another administrative organ with competence, under a separate Act, to adjudicate violations of the principle of equal treatment.

(2) The Authority shall notify the administrative organ having, under a separate Act, the relevant competence, and the said administrative organ shall notify the Authority, of the commencement of a proceeding, the decision with administrative finality, and the final and binding decision concluding the related administrative court action.

(3) If a proceeding is instituted before an administrative organ under paragraph (1), another administrative organ

a) may not proceed with regard to the same violation and the same aggrieved person,

b) shall suspend its pending proceeding launched with regard to the same violation but another aggrieved person until the decision to be taken by the administrative organ proceeding in the case reaches administrative finality.

(4) Once a matter is adjudicated by an administrative organ, another administrative organ

a) may not proceed with regard to the same violation and same aggrieved person,

b) shall act in its proceeding launched with regard to the same violation but another aggrieved person based on the facts established in the decision with administrative finality.

(5) The Authority shall proceed also *ex officio* concerning violations of the principle of equal treatment by any of the organs mentioned in section 4 *a)* to *d)*, provided that no proceeding is pending before another administrative organ concerning the same matter.

(6)

(7) If an expert is to be heard or consulted in the course of a proceeding, the Authority shall appoint, primarily, the administrative organ with material and territorial competence before which the aggrieved person could have instituted the proceeding under paragraph (1) *b)*.

Section 15/A (1) The evidentiary rules laid down in section 19 shall apply to proceedings instituted on the basis of a violation of the principle of equal treatment.

(2) In the course of investigating a violation of the principle of equal treatment, the Authority shall hear the applicant and the person who reported the violation of the principle of equal treatment in the absence of the investigated person, if so requested.

(3) The Authority may carry out situation testing to verify compliance with the principle of equal treatment; in the course of such testing, it puts persons who differ in a characteristic specified in section 8, but are otherwise similar, in identical positions with regard to the conduct, measure, criterion, omission, instruction, or practice (hereinafter jointly “practice”) of the investigated person, and examines the practice of the investigated person from the perspective of compliance with the principle of equal treatment.

(4) The findings of such tests may be used as evidence in proceedings launched on the basis of a violation of the principle of equal treatment.

(5) In the course of the examination referred to in paragraph (3), the Authority may also use agents under an agency contract, for whom the Authority shall issue a letter of mandate indicating his name and specifying the type of test he may carry out with regard to an investigated person.

Section 15/B (1) If an aggrieved party or a person authorised to enforce claims in the public interest commenced a proceeding in court on the basis of a violation of the principle of equal treatment, the Authority or the other administrative organ specified in section 15 (1) *b*) shall suspend its proceeding until the matter is decided with final and binding effect, and it shall notify the court about its procedural decision on suspension.

(2) The court shall send its final and binding decision taken regarding the violation of the principle of equal treatment, or its order suspending its pending proceeding, to the Authority or the other administrative organ specified in section 15 (1) *b*).

(3) In the course of its proceeding, after receiving the court decision, the Authority or the other administrative organ specified in section 15 (1) *b*) shall act, with regard to the same violation, based on the facts established in the decision.

(4) After the court decision becomes final and binding, regarding the violation of the principle of equal treatment,

a) no proceeding may be instituted before an administrative organ with regard to the same violation and same aggrieved person,

b) the Authority or the other administrative organ specified in section 15 (1) *b*) shall act, with regard to the same violation but another aggrieved person, based on the facts established in the decision of the court.

Section 16 (1)

(2) For visually impaired parties, at their request, the minutes of hearings and the decisions closing the proceeding shall also be produced with Braille lettering.

(3) In a proceeding instituted upon application, the procedural costs shall be advanced by the Authority and, with regard to the costs relating to his participating in the proceeding, the investigated person.

(4) If an application is dismissed, the aggrieved party shall only bear the procedural costs if the Authority establishes that he acted in bad faith.

(4a) If the parties reach a settlement before the Authority and the settlement is approved by the Authority, the procedural costs shall be borne by the Authority, with the exception of the costs of any person representing the party and any costs caused by the unlawful conduct of a participant in the proceeding.

(5) If, in the course of the proceedings, a person who does not have a home address, place of residence, or contact address at the seat of the Authority needs to be heard, he shall be summoned by the Authority to the seat of the mayor’s office of the local government where that person lives or customarily resides. The Authority shall hear the summoned person at the venue indicated in the summons. If a person who does not have a home address, place of residence, or contact address resides customarily in the capital, he shall be summoned to or heard at the seat of the Authority.

(6) If, in the course of the proceedings, the Authority holds a hearing, the persons to be heard shall be summoned to the seat of the mayor's office of the local government or, in the capital, the district local government where the applicant has his home address or seat, unless the circumstances do not permit the hearing to be held at that mayor's office. In such a case, the hearing shall be held at the seat of the mayor's office of the local government or, in the capital, the district local government which the Authority considers to be most easily accessible from the applicant's home address and which is capable of providing the conditions necessary for the hearing.

(7) The hearings of the Authority shall be public. The Authority may, by means of a procedural decision, ban the public from the entire hearing or any part thereof if doing so is indispensable for the protection of classified data, trade secrets, or other secrets specified in a separate Act.

(8) The Authority may also ban the public to protect public morality, or at the request of the party, if doing so is justified by the protection of the party's personality rights.

(9) If the investigated person is, pursuant to paragraphs (5) and (6),

a) a local government of a settlement, a district local government in the capital, or an association of local governments involving the local government concerned,

b) a budgetary organ maintained by an organ mentioned in point a),

c) a non-governmental organisation established or supported by an organ mentioned in point a), or

d) a company operating with the involvement of an organ mentioned in point a) or b),

the persons shall be summoned to the seat of the mayor's office of the local government which is most easily accessible from their home address and is not involved in the proceeding, or, in the capital, to the seat of the Authority.

(10) If applying the provisions laid down in paragraphs (5), (6), and (9) would be disproportionately difficult or cause unjustified delay in the proceeding, the Authority may also summon the person to be heard to the seat of the Authority, while reimbursing him for the costs of appearance.

(11) to (12)

(13) The Authority shall attempt to facilitate a settlement before making a decision.

(14) After opening the hearing, the Authority shall succinctly present the documents produced before the hearing in the course of establishing the facts of the case that the parties present may inspect pursuant to this Act or separate laws.

(15) After the position of the applicant is presented, the investigated person shall present his position regarding the matter.

(16) During the hearing, the Authority shall invite the parties to make statements, if doing so is necessary to establish the facts of the case, and shall carry out an evidentiary procedure.

(17) Before closing the hearing, the Authority shall warn the parties about the closing of the hearing, and it shall ask them if they wish to make any further statements.

Legal consequences for violations of the principle of equal treatment

Section 17 An authority proceeding may be instituted to investigate the observance of the principle of equal treatment within one year after the violation became known if three years have not passed since the violation took place.

Section 17/A (1) If the Authority establishes the violation of the principle of equal treatment, it

a) may order the unlawful situation to be ended,

b) may prohibit the unlawful conduct for the future,

c) may order its decision with administrative finality to be published as data accessible on public interest grounds in a de-identified manner apart from any accessible data of the infringer,

d) may impose a fine,

e) may apply a legal consequence specified in a separate Act.

(1a) A fine under paragraph (1) *d)* shall constitute a revenue of the central budget.

(2) For the purposes of paragraph (1) *c)*, data accessible on public interest grounds means the natural identification data and home address of a natural person infringer, and the name and seat of an infringer that is a legal person or an organisation without legal personality.

(3) The legal consequences specified in paragraph (1) shall be determined with regard to all circumstances of the case, in particular the group of aggrieved persons, the reversibility of the harm caused by the violation, the duration of the unlawful situation, the repetition or frequency of the unlawful conduct, the economic significance of the infringer, and the supportive and cooperative behaviour of the infringer as regards the proceeding.

(4) The legal consequences specified in paragraph (1) may also be applied jointly.

(5) The amount of the fine shall range from fifty thousand to six million forints.

(6) If the Authority establishes that an employer who was required to adopt an equal opportunities plan failed to do so, it shall invite the employer to rectify the omission, and it may apply the legal consequences specified in paragraph (1) *c)* to *e)* while applying paragraphs (3) to (4) accordingly.

(7) A proceeding for determining the amount of a fine to be imposed for the violation of a provision implementing the principle of equal treatment may be launched within three months after the Authority becomes aware of the violation, and in any event within one year after the violation has taken place. If the violating conduct or situation is continuous, the time limit shall be calculated from the termination thereof.

Section 17/B (1)

(2) A decision taken by the Authority in a pending proceeding relating to a violation of the principle of equal treatment may not be amended or annulled by exercising supervisory powers.

(3)

Section 17/C (1) With a view to facilitating the use of data concerning compliance with the principle of equal treatment in the proceedings of other organs, the Authority shall keep an official register containing the data of employers who violated the principle of equal treatment as established by the Authority in an enforceable decision with administrative finality or, if the decision was subject to an administrative court action, by a court in a final and binding decision.

(2) The register referred to in paragraph (1) shall contain the following:

a) the name, seat, and tax number of the employer, or, if the employer is a natural person without a tax number, the name, home address, and tax identifier of the employer,

b) the date and number of the decision establishing the violation, and the dates when the decision reached administrative finality and became enforceable,

c) a description of the violation,

d) the legal consequence applied, its extent, and reference to the legal provision serving as basis for the legal consequence,

e) if the decision was subject to an administrative court action, the date and number of the final and binding, and enforceable court decision, the date when it became final and binding, and if the court's decision annulled the challenged administrative decision, or annulled it while ordering a new proceeding, or dismissed the action.

(3) Data in the official register shall be processed by the Authority in its own information system. All data mentioned in paragraph (2) shall be entered by the Authority in the information database on the day when the decision establishing the violation reaches administrative finality and becomes enforceable or, if the administrative decision was subject to an administrative court action, on the next working day after the decision of the court becomes known.

(4) Data recorded in the register, or made available to the public on the website based on the register, shall be erased by the Authority two years after the underlying decision becomes final and binding or the underlying decision reaches administrative finality and becomes enforceable.

Section 17/D§ (1) Subject to the derogation set out in paragraph (3), the Authority shall, from the register kept by it, make available to the public the data mentioned in section 17/C (2) *a*) to *d*) concerning employers who were subject to fine, imposed by an enforceable administrative decision with administrative finality or, if that decision was subject to an administrative court action, by the court decision, within two years for the repeated commission of an identical violation, as well as the data mentioned in section 17/C (2) *e*) if the administrative decision was subject to an administrative court action and the court dismissed the action or amended the administrative decision, by publishing them on its website as soon as the repeated commission of a violation identical to the previous one within two years is established in an enforceable administrative decision with administrative finality, in accordance with the law.

(2) For the purposes of paragraph (1) and with regard to employers having more than one establishment, repeated commission of an identical violation shall be construed to refer to an identical violation established, at the same establishment, within a period of two years in an enforceable decision with administrative finality.

(3) If the Authority becomes aware of an administrative court action brought against its decision,

a) it shall publish the data mentioned in paragraphs (1) and (2) with due regard to the final and binding, and enforceable court decision,

b) it shall arrange for the erasure of the data made available to the public on its website, in so far as the data mentioned in paragraphs (1) and (2) have already been made available.

(4) The registration and publication obligation of the Authority shall not be affected by the performance of any obligation, provided for by an administrative decision with administrative finality or by an administrative decision subject to a final and binding court decision, by the employer concerned within the time limit or on the due date set.

Special rules on data processing

Section 17/E (1)

(2) The investigated person shall, upon request, make available all documents and data stored on an electronic data-storage medium relating to the case, and he shall ensure that all facts, circumstances, and other conditions be accessible as necessary to investigate any violation of the principle of equal treatment. The investigated person may not be required to produce any record or summary he is not required by law to keep, provided that disproportionate effort would be required to produce such a record or summary.

(3) The Authority may not require the making available of sensitive data under paragraph (2), unless the processing of such data is indispensable for the proceeding and the absence of such data would frustrate the proceeding.

(4) In an administrative authority proceeding, the Authority may impound or seize records or databases containing personal data.

Representation

Section 18 (1) In proceedings instituted for violation of the principle of equal treatment and in particular in actions for the enforcement of personality rights, labour law actions, or actions concerning public service relationships, a non-governmental and representative organisation or the Authority may act as representative on the basis of an authorisation granted by the aggrieved party, unless otherwise provided in an Act. A non-governmental and representative organisation shall provide proof of its right to represent by submitting, as an original document or in a certified copy, its articles of association or deed of foundation and an authorisation granted by the represented party in writing, provided that the organisation may be required to provide such proof pursuant to the Act on the general rules on electronic administration and trust services.

(2) In an authority proceeding instituted for the violation of the principle of equal treatment, an organisation referred to in paragraph (1) shall be entitled to parties' rights.

(3) If a violation of the principle of equal treatment, or the direct threat of it, was based on a characteristic specified in section 8 that constitutes an essential trait of an individual's personality, and the violation or the direct threat of it affects a larger but undefinable group of persons, an organisation referred to in paragraph (1) may institute a proceeding before the Authority.

Evidentiary rules

Section 19 (1) In a proceeding instituted for a violation of the principle of equal treatment, the aggrieved party or the person authorised to enforce claims in the public interest shall be required to demonstrate the likelihood that

a) the aggrieved person or group suffered a disadvantage or, when enforcing a claim in the public interest, there is a direct threat of such a disadvantage, and

b) the aggrieved person or group bore, in fact or as presumed by the investigated person, a characteristic specified in section 8 at the time of the violation.

(2) If the likelihood of the conditions specified in paragraph (1) is demonstrated, the other party shall be required to demonstrate that

a) the circumstances, the likelihood of which was demonstrated by the aggrieved party or the person authorised to enforce public interest claims, did not exist, or

b) it either observed the principle of equal treatment or was not required to observe that principle regarding the legal relationship concerned.

(3) The provisions laid down in paragraphs (1) to (2) shall not apply to criminal proceedings and infraction proceedings.

Enforcement of claims in the public interest

Section 20 (1) For violation of the principle of equal treatment, an action for the enforcement of personality rights, a labour law action, or an action concerning public service relationships may be brought in court by

a) a prosecutor,

b) the Authority,

c) a non-governmental and representative organisation,

if a violation of the principle of equal treatment, or the direct threat of it was based on a characteristic specified in section 8 that constitutes an essential trait of an individual's personality, and the violation or the direct threat of it affects a larger but undefinable group of persons.

(2) The Authority shall erase without delay all personal and sensitive data the processing of which is not indispensable for exercising its competence referred to in paragraph (1).

Chapter III

IMPLEMENTATION OF THE PRINCIPLE OF EQUAL TREATMENT ON INDIVIDUAL FIELDS

Occupational requirements

Section 21 Violation of the principle of equal treatment shall be taken to occur in particular where an employer discriminates, either directly or indirectly, against an employee, in particular in the course of determining or applying any of the following provisions:

- a)* access to employment, in particular by way of public job advertisements, recruitment for work, and hiring conditions;
- b)* a provision relating to a procedure preceding or supporting the establishment of an occupational relationship or another employment-related relationship;
- c)* the establishment and termination of an occupational relationship or another employment-related relationship;
- d)* in relation to training prior to, or in the course of, work;
- e)* establishment of, and arrangements for, working conditions;
- f)* establishment of, and arrangements for, any benefit provided on the basis of an occupational relationship or other employment-related relationship, including, in particular the wage as defined in section 12 (2) of Act I of 2012 on the Labour Code;
- g)* in relation to membership of, and involvement in, employees' organisations;
- h)* in relation to a promotion scheme;
- i)* in the course of enforcing liability for damages and disciplinary liability; and
- j)* in relation to applying for, and using parental leave for the purpose of facilitating the reconciliation of parental and professional responsibilities of employees and increasing the time available for caring for children.

Section 22 (1) It shall not constitute a violation of the principle of equal treatment if

- a)* with regard to hiring, a difference of treatment is justified by the nature of the work or working conditions, is based on a genuine and determining occupational requirement, and its objective is legitimate and proportionate,
- b)* a difference of treatment directly follows from the fundamental ethos of an organisation that is based on religion, other belief, or national or ethnic origin, and, by reason of the scope or nature of the given occupational activity, it is based on a justified, proportionate and genuine occupational requirement.

(2) For the purposes of section 21 *f)*, direct discrimination that is based on a characteristic specified in section 8 *a)* to *e)* shall constitute a violation of the principle of equal treatment under any and all circumstances.

Section 23 An Act, a government decree issued on the basis of authorisation by an Act, or a collective agreement may, with respect to a defined group of employees, provide for an obligation for positive action in relation to the occupational relationship or other employment-related relationship.

Social security and healthcare

Section 24 In the context of social security, the principle of equal treatment shall be implemented in particular in relation to the application for, and provision of

- a)* benefits financed from a social security scheme, and
- b)* social or child protection benefits, both financial and in-kind as well as personal care services.

Section 25 In the context of healthcare, the principle of equal treatment shall be implemented in particular in relation to the provision of healthcare services, including

- a)* participation in preventive programmes and screenings,
- b)* medical-preventive care,
- c)* the use of premises intended for the purpose of stay,
- d)* meeting food and other needs.

(2) On the basis of state of health, disability, or a characteristic specified in section 8, in accordance with the provisions of this Act, an Act or a government decree issued on the basis of authorisation by an Act may provide for additional services within the social and healthcare system for the benefit of certain groups of society.

Housing

Section 26 (1) Violation of the principle of equal treatment shall be taken to occur in particular where, on the basis of a characteristic specified in section 8, certain persons

- a)* are discriminated against, either directly or indirectly, regarding any support, benefit, or interest subsidy provided by the state or a local government for the purpose of facilitating housing,
- b)* are put at a disadvantage when determining the terms of selling or leasing apartments or construction plots owned by the state or a local government.

(2) A refusal to issue an occupancy permit or any other permit by a construction authority, or the application of any condition for issuing such a permit, may not be based, either directly or indirectly, on a characteristic specified in section 8.

(3) The conditions of access to housing may not be designed to separate certain groups, on the basis of a characteristic specified in section 8, in a settlement or part of a settlement in an artificial manner and not based on the voluntary decision of the group concerned.

Education and training

Section 27 (1) The principle of equal treatment shall be applicable to all forms of upbringing, education, and training

- a)* which is conducted on the basis of requirements approved or required by the state, or
- b)* for the organisation of which the state
 - ba)* provides direct normative budgetary subsidy, or
 - bb)* provides indirect contribution, in particular by the remission or set-off of taxes, duties or other charges, or granting tax credit (hereinafter jointly “educational scheme”).

(2) With regard to educational schemes, as defined in paragraph (1), the principle of equal treatment shall be implemented, in particular, in the course of

- a)* determining the conditions of joining an educational scheme, and assessing applications for admission,
- b)* determining and enforcing the requirements of an educational scheme,
- c)* assessing performance,

- d)* providing and using services relating to an educational scheme,
- e)* accessing allowances relating to an educational scheme,
- f)* providing accommodation and boarding in dormitories,
- g)* issuing certificates, degrees, and diplomas in an educational scheme,
- h)* accessing career advisory services, and
- i)* terminating legal relationships for participating in an educational scheme.

(3) Violation of the principle of equal treatment shall be taken to occur in particular where a person or group

a) is segregated in an educational institution or a section, class, or group within an educational institution,

b) is restricted to an upbringing or an educational scheme, or an upbringing or educational system or institution is established or maintained, the quality of which does not reach the applicable professional requirements or does not meet professional regulations, and consequently, it does not provide a generally expected opportunity for teaching and learning required to pursue studies and pass state exams.

(4) Educational institutions shall be prohibited from accommodating study circles, pupil groups, or other organisations for pupils, students, or parents the purpose of which is to discredit, stigmatise, or exclude other persons or groups.

Section 28 (1) It shall not constitute a violation of the principle of equal treatment if an educational scheme is available only to pupils belonging to the same sex, provided that participation in the educational scheme is voluntary, and participants in the educational scheme do not suffer any disadvantage because of their participation.

(2) It shall not constitute a violation of the principle of equal treatment if

a) in a public upbringing institution or vocational training institution, at the initiative and voluntary choice of the parents,

b) in an institute of higher education, based on the voluntary participation of students, an educational scheme is provided on the basis of religion or other belief, the purpose or curriculum of which justifies the formation of separate classes or groups; provided that participants in the educational scheme do not suffer any disadvantage because of this, and that the educational scheme meets all requirements approved, required, or supported by the state.

(2a) The provision of an educational scheme based on religion or other belief referred to in paragraph (2), may not result in segregation on the basis of a characteristic specified in section 8 *b)* to *e)*.

(2b) With regard to the provision of an educational scheme for a national minority, the principle of equal treatment shall be considered violated, unless the provision of the educational scheme meets, in addition to the requirements specified in paragraph (2), the following requirements:

a) the conditions for acquiring the competencies set out in the core curriculum are equal to the conditions generally applying to the educational scheme not provided specifically for a national minority, and

b) the educational scheme provided to a national minority meets the requirements specified in the Act on the rights of national minorities.

(3) For the purpose of preserving linguistic or cultural identity, a law may establish provisions deviating from those provided for in section 27 (2) *a)* with regard to public upbringing institutions, maintained by an ecclesiastical legal person, a religious association, or a national minority self-government, or with regard to institutes of higher education maintained by an ecclesiastical legal person, an organisation performing religious activities, or a national self-government of a national minority.

Section 29 With respect to a defined group of persons participating in a formal or non-formal educational scheme, an Act or a government decree issued on the basis of authorisation by an Act may provide for an obligation for positive action in relation to the educational or training scheme.

Access to and supply of goods and services

Section 30 (1) Violation of the principle of equal treatment shall be taken to occur in particular if on the basis of a characteristic specified in section 8 and in premises open for customers, such as catering, commercial, cultural, or entertainment facilities,

- a) the access to and supply of goods and services is denied or not provided,
- b) the quality of goods and services distributed or provided is different from the goods and services available at the given location,
- c) any text or sign is displayed which serves as ground for a conclusion that a certain person or persons are excluded from the access to and supply of goods and services at the given location.

(2) Access to facilities established for members of a group bearing a characteristic specified in section 8 for the purpose of preserving traditions, and cultural and self-identity, which is open to members of a smaller community, may be restricted or subject to membership or special conditions.

(3) The restriction referred to in paragraph (2) shall be apparent from the name of the facility and the circumstances of using its services; it may not be implemented in a manner that is humiliating or defamatory with regard to persons who are not members of the given group, or might present an opportunity for the abuse of rights.

Section 30/A (1) With regard to insurance services and services based on the principles of insurance, not including group life, accident, and health insurances, differentiation on the basis of sex shall constitute a violation of the principle of equal treatment, unless otherwise provided in the Act regulating such services, if the proceedings of the service provider result in any direct or indirect differentiation on the basis of sex regarding the premium payable by or the services provided to individuals.

(2) With regard to the services specified in paragraph (1), costs relating to pregnancy or motherhood may not result in any difference in the premium payable by or the services provided to individuals.

Chapter IV

LOCAL EQUAL OPPORTUNITIES PROGRAMMES

Section 31 (1) The local government of a village, a town, or a district in the capital (hereinafter “the local government”) shall adopt a five-year-long local equal opportunities programme every five years.

(2) As part of the local equal opportunities programme, an assessment shall be carried out of the educational, housing, employment, healthcare, and social situation of disadvantaged social groups, with special regard to women, persons living in extreme poverty, Roma, persons with disabilities, children, and old persons; an action plan drawn up on the basis of that assessment shall identify the measures needed to manage the complex problems pointed out in the assessment. The opinion of local national minority self-governments shall be taken into account in the course of carrying out the assessment and adopting the action plan. The local equal opportunities programme shall be prepared in accordance with the detailed rules determined by the minister responsible for social inclusion. In shaping the programme, consistency between the local equal opportunities programme and other development plans

and concepts to be prepared by the local government, as well as the anti-segregation objectives of the equal opportunities plans in public upbringing and in vocational training, and the integrated settlement development strategy shall be ensured.

(3) In preparing the local equal opportunities programme, special attention shall be paid to

- a) measures facilitating the implementation of the principles of equal treatment, equal opportunities, and social inclusion,
- b) the prevention of, and combat against, segregation in the field of education and training, and measures needed to ensure equal access,
- c) measures needed to ensure equal access to public services and healthcare services,
- d) measures aimed at reducing the disadvantage and improve the employment chances of disadvantaged persons in the labour market.

(4) The *pro rata* implementation of the local equal opportunities programme, and any change to the situation referred to in paragraph (2) shall be evaluated every two years; the local equal opportunities programme shall be reviewed on the basis of that evaluation as necessary, and the assessment and the action plan shall be updated according to the new situation.

(5) The local equal opportunities programme shall be prepared by public officials or public employees of the local government. Their training, as well as the preparation and revision of local equal opportunities programmes shall be assisted by equal opportunities mentors. Training shall be provided for public officials and public employees of local governments by an organ appointed by the Government in a decree.

(6) A local government may not receive any grant provided on the basis of individual decisions in response to applications from a subsector of the general government, European Union sources, or another scheme financed under an international agreement, unless it has an effective local equal opportunities programme pursuant to the provisions of this Act.

(7) An association of local governments with legal personality may not receive any grant provided on the basis of individual decisions in response to applications from a subsector of the general government, European Union sources, or another scheme financed under an international agreement, unless each local government belonging to the association has an effective local equal opportunities programme pursuant to the provisions of this Act.

(8) A person may act as an equal opportunities mentor if he

- a) holds a higher education degree,
- b) participated in a training specified by a separate law, and
- c) has the professional experience specified by a separate law.

Chapter V

PROVISIONS ON INDIVIDUAL AIDS

Section 32 (1) Under a social inclusion project co-financed by the European Union, a project promoter or consortium partner (hereinafter jointly “granting entity”) may grant a maintenance aid for social inclusion (hereinafter “aid”) to a person attending a training of at least 20 hours per week organised for disadvantaged persons defined in point 18 of Article 2 of Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market, provided that it facilitates his participation in the training programme and its provision is not inconsistent with Article 107 of the Treaty on the Functioning of the European Union or a directly applicable legal act of the European Union, if that person

- a) does not receive any income compensation allowance at the time of enrolling to the training,

b) does not have an employment relationship, other than casual employment, and does not pursue any other gainful activity, and

c) does not participate in any other subsidised training or labour market programme during the period of the training.

(2) The granting entity shall enter into an adults training contract with the person attending the training regarding the granting of the aid, and it shall notify the state employment organ of providing the maintenance aid for social inclusion.

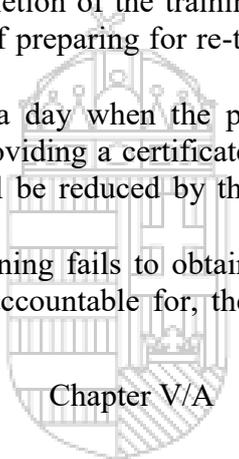
Section 32/A (1) If the training is provided in at least 40 hours per week, the aid amount shall be equal to the community employment wage applicable at the time of concluding the adults training contract; if the training period is shorter, the aid amount shall be calculated in proportion to the training time.

(2) A person attending a training shall be entitled to 80% of the amount determined under paragraph (1) during the training proportionally, and he shall be paid the remainder in one sum when he is awarded a certificate of completing the training.

(3) The aid shall be provided *ex-post* on a weekly or monthly basis, depending on the nature of the training, for the period of the training, including any practical training, of preparing for the final examination after the completion of the training, and the day of the first exam. No aid may be provided for the period of preparing for re-taking an exam if the candidate failed the final examination.

(4) No aid may be provided for a day when the person attending the training fails to participate in the training without providing a certificate for his absence. In such a situation, the amount of the aid provided shall be reduced by the aid amount to be paid for the day omitted.

(5) If the person attending the training fails to obtain a certificate of completing a given training module for a reason he is accountable for, the aid amount provided for the given training module shall be recovered.



Chapter V/A

Section 33

Section 34

Section 35

Section 36

Section 37

Section 38

Section 39

Section 39/A

Section 40

Section 41

Section 42

Section 43

Section 44

Section 45

Sections 46 to 62

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Chapter VI

FINAL PROVISIONS

Section 63 With the exceptions specified in paragraphs (2) to (3), this Act shall enter into force on the 30th day following its promulgation.

(2) Sections 13 to 17, the wording “or the Authority” in section 18 (1), and section 20 (1) *b*) of this Act shall enter into force on 1 January 2005.

(3)

(4) Budgetary organs and legal persons under majority state-ownership employing more than fifty persons shall adopt an equal opportunities plan.

(5)

Section 63/A The abbreviated designation of this Act, to be used in other laws, is Ebktv.

Section 64

Section 64/A Section 31 (6) and (7) shall apply following 1 July 2013.

Section 64/B (1) The Government shall be authorised to determine in a decree the criteria and procedure for preparing the equal opportunities programme referred to in section 31 (1), the method of reviewing local equal opportunities programmes, and the detailed rules concerning the requirements applicable to stakeholders participating in the preparation of an equal opportunities programme.

(2) The Government shall be authorised to determine in a decree the rules applicable to the training of public officials and public employees involved in the preparation of the local equal opportunities programme of local governments, as well as the activities of equal opportunities mentors.

(3) The Government shall be authorised to designate in a decree the bodies providing training for persons involved in the preparation of local equal opportunities programmes.

(4) The minister responsible for social inclusion shall be authorised to determine in a decree the detailed rules concerning the preparation of local equal opportunities programmes.

(5)

Section 64/C (1) The provisions laid down in section 30/A (1) of this Act, as introduced by Act CLI of 2012 amending certain finance-related Acts, shall apply pursuant to section 447 of Act LXXXVIII of 2014 on the insurance business.

(2) The provisions of this Act as amended by section 47 of Act LXXXIV of 2013 amending certain Acts with regard to administrative authority procedures and publicly certified official registers, and amending other Acts shall apply to procedures commenced or repeated after the entry into force of those provisions.

Section 65 This Act serves the purpose of compliance with the following Directives:

a) Council Directive 76/207/EEC of 9 February 1976 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 Directive 2002/73 EC amending it,

b) Council Directive 79/7/EEC of 19 December 1978 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 of 24 July 1986 on the implementation of the principle of equal treatment for men and women in occupational social security schemes,

d) Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC,

e) Council Directive 97/80/EC of 15 December 1997 on the burden of proof in cases of discrimination based on sex,

f) Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin,

g) Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation,

h) Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services,

i) Council Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC,

j) Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation,

k) Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted,

l) Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State,

m) Article 2 (1) (b) and (c) of Directive 2014/54/EU of the European Parliament and of the Council of 16 April 2014 on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers.

Section 66 Sections 32 and 32/A provide for aid covered by Articles 38 and 39 of Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty.

Section 67 Section 14 (1) *j)* contains provisions for the implementation of Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air.

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