

REPUBLIC OF HUNGARY

Act CXXV of 2003¹

on equal treatment and the promotion of equal opportunities

The Parliament,

acknowledging every person's right to live as a person of equal dignity,

intending to provide effective legal aid to those suffering from negative discrimination,

declaring 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 legal acts of the European Union,

hereby enacts the following Act:

¹ Adopted by the Parliament on 22 December 2003.

CHAPTER I

GENERAL PROVISIONS

Article 1

Pursuant to the principle of equal treatment, all natural persons abiding in the area 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 employment*: work-from-home employment relationship, relationship created pursuant to a contract for employment, membership in a professional group, and elements of the co-operative membership and partnership activities under economic and civil law involving personal contribution and aimed at employment;
- c) *state aid*: 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 paid by the central budget;
- d) *public 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 passenger transport services;
- e) *social and interest representation organisation*: social organisation or foundation whose objectives set out in its articles of association or statutes include the promotion of the equal social opportunities of disadvantaged groups or the protection of human or personal rights; and, in respect of a particular national and ethnic minority, the minority government; furthermore the trade union in respect of matters related to employees' material, social and cultural situation and living and working conditions;
- f) *relative*: the person defined as such by Paragraph b) of Section 685 of the Civil Code with the exception of fiancées.

*Scope***Article 4**

The principle of equal treatment shall be observed by

- a) the Hungarian State,
- b) local and minority governments and all bodies thereof,
- c) organisations exercising powers as authorities,
- d) armed forces and policing bodies,
- e) public foundations, public bodies,
- f) organisations performing public services,
- g) institutions of elementary and higher education (hereinafter collectively: educational institutions),
- h) persons and institutions providing social care and child protection services, and child welfare service,
- i) museums, libraries, elementary educational institutions,
- j) voluntary mutual insurance funds, private pension funds,
- k) entities providing health care,
- l) parties, and
- m) budgetary organs that do not belong to points a)-l)

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

Article 5

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

- a) those who make a proposal to persons not previously selected to enter into contract or invite such persons for tender,
- b) those who provide services or sell goods at their premises open to customers,
- c) self-employed persons, legal entities and organisations without a legal entity receiving state aid, in respect of their relationships established in the course of their utilisation of such a state aid, from the time when the state aid is utilised until the competent authorities can audit the utilisation of the state aid in accordance with the applicable regulations; and
- d) employers in respect of employment relationships and persons entitled to give instructions in respect of other relationships aimed at employment 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 directly connected with the activities of the religious life of the churches; and
- d) when Article 4 of this Act is applied - in the absence of a legal act providing to the contrary -, social organisations, relationships between the members of legal entities and organisations without a legal entity and relationships related to membership, except for the establishment of membership.

(2) Paragraph (1) d) cannot be applied at

- a) the establishment and cancellation of membership relationship, and

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

Article 7

(1) Direct negative discrimination, indirect negative discrimination, harassment, unlawful segregation, retribution, and any orders issued therefor mean a breach of the principle of equal treatment, especially as set out in Chapter III.

(2) The principle of equal treatment is not breached by behaviour, measure, condition, omission, instruction or practice (hereinafter collectively: provision) based on a characteristic related to any of the grounds referred to in Article 8, provided that they are found by objective consideration to have a reasonable explanation directly related to the relevant relationship.

Negative discrimination

Article 8

Provisions that result in a person or a group is 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) national or ethnic origin,
- 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) the part-time nature or definite term of the employment relationship or other relationship related to employment,
 - s) the membership of an organisation representing employees' interests,
 - t) other status, attribute or characteristic (hereinafter collectively: characteristics)
- are considered direct discrimination.

Article 9

Provisions that 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 compared with other persons or groups in a similar situation are considered indirect discrimination.

*Harassment, unlawful segregation, retribution***Article 10**

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

(2) Unlawful segregation is a conduct that separates individuals or groups of individuals from others on the basis of their characteristics as defined in Article 8 without a reasonable explanation resulting from objective consideration.

(3) Retribution is a conduct that causes infringement, is aimed at infringement, or threatens infringement, against the person making a complaint or initiating procedures because of a breach 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 measure aimed at the elimination of inequality of opportunities based on an objective assessment of an expressly identified social group is not considered a breach 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 organ 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) A measure aimed at evening out a disadvantage shall not violate any basic rights, shall not provide unconditional advantage, and shall not exclude the consideration of individual circumstances.

CHAPTER II

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

Article 12

Claims arising from breaching the principle of equal treatment can be enforced in the scope of the procedures described herein or in separate legal acts, particularly in the scope of lawsuits under personal law, lawsuits under labour law, or procedures by the consumer protection, labour or offence authorities.

*Procedure in case of a breach of this Act***Article 13**

- (1) The public administrative body with the overall responsibility (hereinafter: Authority) ensures compliance with the principle of equal treatment.
- (2) The Authority works under the instruction of the Government, under the supervision of a member of the Government.
- (3) The Authority cannot be directed at the exercise of duties defined in the Act.
- (4) The Authority whose budget forms an independent title at the budgetary chapter of the Prime Minister's Office is a budgetary organ vested with authorities on the chapter.

Article 14

The Authority shall

- a) based on an application or in cases defined herein, conduct ex officio an investigation to establish whether the principle of equal treatment has been violated, and make a decision on the basis of the investigation;
- b) pursuant to the right of claim enforcement in the public interest, initiate a lawsuit with a view to protecting the rights of persons and groups whose rights have been violated;
- c) review and comment on drafts of legal acts concerning equal treatment;
- d) make proposals concerning governmental decisions and legislation pertaining to equal treatment;
- e) regularly inform the public and the Government about the situation concerning the enforcement of equal treatment;

- f) in the course of performing its duties, co-operate with the social and representation organisations and the relevant state bodies;
- g) continually provide information to those concerned and offer help with acting against the violation of equal treatment;
- h) assist in the preparation of governmental reports to international organisations, especially to the Council of Europe concerning the principle of equal treatment;
- i) assist in the preparation of the reports for the Commission of the European Union concerning the harmonisation of directives on equal treatment;
- j) prepare an annual report to the Government on the activity of the Authority and its experiences obtained in the course of the application of this Act.

(2) In the course of applying Paragraph (1) a) the Authority shall proceed in accordance with the provisions of Act IV of 1957 on the general procedures of state administration, with the differences regulated herein.

(3) The Authority shall perform its duties set out in Paragraph (1) c)-j) in co-operation with an advisory body whose members have extensive experience in the protection of human rights and in enforcing the principle of equal treatment, and have been invited by the Prime Minister to join the aforementioned body.

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) 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 initiation of the procedure.

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

a) cannot proceed in the case of a violation of law committed against the same person,

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

(4) If the matter has been judged by any public administration body pursuant to Paragraph (1), then in the same matter other public administration bodies

a) cannot proceed 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 case of a violation of law committed against another person.

(5) The Authority shall also proceed ex officio in cases where the principle of equal treatment is violated by the bodies defined in Article 4 (1) a)-d) if there are no procedures under way in the particular matter before any other public administration bodies.

(6) The Authority cannot investigate decisions and measures of public power by the Parliament, the President, 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 the data protection, the courts and the public prosecution.

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

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) prohibit the further continuation of the conduct constituting a violation of law,
- c) publish its decision establishing the violation of law,
- 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) The amount of the fine inflicted in accordance with Paragraph (1) d) can be from fifty thousand to six million Forints. The fine shall be payable to the budgetary appropriation of the Republican Equal Opportunities Programme.

Article 17

(1) The decision of the Authority cannot be appealed against in the scope of a public administrative procedure.

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

(3) According to the general rules applicable to public administration decisions, the court can review a decision of the Authority. The lawsuit falls within the scope of authority and exclusive competence of the Metropolitan Court.

(4) The Metropolitan Court shall proceed through a panel comprised of three professional judges.

Representation

Article 18

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

(2) In a public administrative procedure initiated because of the violation of the principle of equal treatment, the social and interest representation organisation is entitled to the rights of the client.

Burden of proof

Article 19

(1) In procedures initiated because of a violation of the principle of equal treatment, the injured party or the party entitled to assert claims of public interest must prove that

a) the injured person or group has suffered a disadvantage, and

b) the injured party or group possessing characteristics defined in Article 8.

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

a) it has observed or

b) in respect of the relevant relationship was not obliged to observe, the principle of equal treatment.

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

Assertion of claims of public interest

Article 20

(1) A lawsuit under personal or labour law because of a violation of the principle of equal treatment before the court can be initiated by

a) the Public Prosecutor,

b) the Authority, or

c) the social and interest representation organisation,

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

(2) The compensation and fines of public interest imposed in the lawsuit initiated by the application of Paragraph (1) are due to pay to the central budget.

CHAPTER III

ENFORCEMENT OF THE PRINCIPLE OF EQUAL TREATMENT IN VARIOUS SITUATIONS

Employment

Article 21

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

- a) access to employment, especially in public job advertisements, hiring, and in the conditions of employment;
- b) a provision made before the establishment of the employment relationship or other relationship related to employment, related to the procedure facilitating the establishment of such a relationship;
- c) establishing and terminating the employment relationship or other relationship related to employment;
- d) relation to any training before or during the work;
- e) determining and providing working conditions;
- f) establishing and providing benefits due on the basis of the employment relationship or other relationship related to work, especially in establishing and providing wages;
- g) relation to membership or participation in employees' organisations;
- h) the promotion system;

i) the enforcement of liability for damages or disciplinary liability.

Article 22

The principle of equal treatment is not violated if

- a) the discrimination is proportional, justified by the characteristic or nature of the work and is based on all relevant and legitimate terms and conditions, 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.

Article 23

An act, a government decree based on an act or 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 employment.

Social security and health care

Article 24

The principle of equal treatment shall be enforced in respect of insurance systems, particularly in the course of claiming benefits

- a) financed from the social security systems, and
- b) providing social, or 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) Pursuant to or authorised by the law and based on health, disability or a characteristic defined in Article 8, a government decree may grant additional benefits to specified groups of society within the framework of the social and health care system, in accordance with the provisions herein.

Housing

Article 26

(1) It is a particular violation of the principle of equal treatment when any persons because of their characteristics defined in Article 8 are

- 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.

(2) The issue of occupancy and other building permits by the relevant authorities cannot be denied, or tied to any conditions, based directly or indirectly on characteristics defined 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, rather than by 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 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 supplement in dormitories,
 - g) issuing certificates and diplomas obtainable in education,
 - h) access to vocational guidance, and
 - i) 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 a care or educational system or institution is created or maintained whose standards do not reach accepted professional requirements or do not meet professional rules, and thus do not ensure a reasonably expectable opportunity to prepare 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 objective is to discredit, stigmatise or exclude individuals or groups.

Article 28

- (1) If the education is only organised for students of one sex, it does not violate the principle of equal treatment, provided that participation in such an education is voluntary, and will not result in any disadvantages for the participants.
- (2) The principle of equal treatment is not violated if,
- a) in elementary and higher education, at the initiation and by the voluntary choice of the parents,
 - b) at college or university by the students' voluntary participation,
- 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 Article 27 (2) a) in respect of educational institutions serving the protection of linguistic or cultural identity or the purposes of a church, ethnic or other minority.

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) putting up a notice or sign 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 furthermore it must not provide an opportunity for abusing the law.

CHAPTER IV

REPUBLICAN EQUAL OPPORTUNITIES PROGRAMME

Article 31

(1) The objective of the Republican Equal Opportunities Programme (hereinafter: Programme) is to prevent negative discrimination and to promote the equal opportunities of certain specific social groups in all aspects of life.

(2) The Programme includes all governmental measures serving the objective defined in Paragraph (1).

(3) Funds from the central budget for the Programme are ensured by the Act on the Budget of the Republic of Hungary.

Article 32

(1) The Parliament approves the Programme every two years at the recommendation of the Government, after it has been discussed with the relevant social and interest representation organisations and the organisations representing employers' and employees' interests, based on the proposal of the Minister responsible for the co-ordination of equal opportunities issues.

(2) The Programme forms an annex to the Parliament's resolution.

Article 33

(1) The Programme analyses the situation of the relevant groups of society and determines the objectives promoting equal opportunities.

(2) The Programme includes

- a) the measures required for changing society's approach in a positive direction,
- b) the informative measures concerning the possibilities of acting against violations of the law,
- c) the measures required for improving the situation of disadvantaged groups and reducing the discrepancies in the labour market,
- d) the measures required for improving the participation of disadvantaged groups at all levels of decision-making,
- e) the measures by the State increasing the interest of employers in the effectiveness of the Programme,
- f) the measures required to promote the access of disadvantaged groups to services connected with the informational society,
- g) the measures required for increasing the participation of disadvantaged groups in elementary and higher education, and
- h) the legislative tasks required for achieving the proposed objectives.

Article 34

The Government shall report to the Parliament on the delivery of the Programme within a year following the relevant period.

Article 35

In harmony with the Programme local authorities can adopt local equal opportunities programme, which analyses the state of the disadvantaged groups living in the settlement and defines the purposes of promoting the equal opportunities of these groups. The equal opportunities programme of the local authority comprises especially the purposes connected with the duties performed

by the local authority and with the local public affairs, the demand of sources and the time of realisation.

Article 36

Budgetary organs and legal entities in state majority ownership employing more than fifty employees are obliged to accept the equal opportunities plan under Article 70/A of Act XXII of 1992 on the Labour Code (hereinafter: LC).

CHAPTER V

AMENDED LEGAL ACTS

Article 37

Article 76 of the Civil Code (hereinafter: CC) shall be amended as follows:

„Article 76 The violation of the principle of equal treatment and freedom of conscience; any unlawful restriction of personal freedom; injury of body and health; contempt for or insult to the honour, integrity, or human dignity of private persons shall be deemed as violations of inherent rights.”

Article 38

Article 2 (3) of Law Decree No 11 of 1979 on the implementation of punishments and measures shall be replaced by the following:

„(3) The principle of equal treatment shall be observed in respect of prisoners.”

Article 39

The first sentence of Article 2 of Act IV of 1991 on the promotion of employment and on the unemployment benefits shall be replaced by the following:

“The principle of equal treatment shall be observed in the promotion of employment and unemployment benefits”

Article 40

Article 42 (1) of Act I of 1992 on cooperatives shall be replaced by the following:

„(1) Pursuant to the principle of open membership, the principle of equal treatment shall be observed in the acceptance of members and in determining the rights and obligations thereof.”

Article 41

(1) Article 5 of LC and the previous subtitle shall be replaced by the following:

„The principle of equal treatment

Article 5 (1) The principle of equal treatment shall be observed in respect of the employment relationship.

(2) The consequences of the violation of the principle of equal treatment shall be remedied as appropriate, and shall not entail the violation or derogation of other employees' rights.”

(2) In Article 68 (2) of the LC the text “the rules of negative discrimination” shall be replaced by the text “the principle of equal treatment”.

(3) The following new subtitle and Article 70/A shall be added to the LC:

“Equal Opportunities Plan

Article 70/A (1) The employer and the trade union with a representation at the employer, or in the absence of a trade union, the workers’ council, may jointly accept an equal opportunities plan for a specific period of time.

(2) The equal opportunities plan shall contain the analysis of the employment situation of disadvantageous groups of employees gainfully employed by the employer, especially of

a) women,

b) employees over forty years old,

c) Romany Gypsies,

d) disabled people, and

e) single parent employees raising two or more children under 10,

with particular regard to their wages, working conditions, professional careers, training and subsidies related to child-rearing and their parental role, and furthermore the objectives of the employer in respect of ensuring equal opportunities proposed for the relevant year and the resources required for the achievement thereof, with particular regard to training, work safety and any other programmes introduced by the employer affecting the conditions of employment.

(3) The special personal data required for the preparation of the equal opportunities plan can only be managed in accordance with the provisions of Act LXIII on the Protection of Personal Data and the Publicity of Data of Public Interest, voluntarily provided by the individuals concerned and until the last day of the period incorporated in the equal opportunities plan.”

(4) In Article 100 (3) a), of the LC, the text “the banning of negative discrimination” shall be replaced by “the requirement of equal opportunities”.

(5) In Article 106/A (1) g) of the LC the text “the principle of equal treatment for men and women, and of non-discrimination regulations” shall be replaced by “the principle of equal treatment”.

(6) In Article 142/A (1) of the LC the text “no unjustified discrimination shall be made among the employees” shall be replaced by “the principle of equal treatment shall be observed”, and in Paragraph (4) the text “so that it cannot result in negative discrimination among the employees (Article 5)” shall be replaced by “shall comply with the principle of equal treatment”.

(7) Article 193/G (5) c) of the LC shall be replaced by the following:

„(Throughout the duration of the work the borrower shall be considered the employer)

c) in respect of the principle of equal treatment,

(and in respect of observing the rules applicable to the records kept thereof.)”

(8) The following new paragraphs h)-j) shall be added to Article 212 (2) of the LC:

“(Within the framework of Section 3 of Act I of 1994 promulgating the Europe Agreement establishing an association between the Republic of Hungary and the European Communities and their member states, signed in Brussels on 16 December 1991, this Act contains regulations designed to approximate the following legal regulations of the European Communities:)

h) Council Directive 75/117/EC on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women,

i) Council Directive 92/85/EC on the introduction of measures to encourage improvements in safety and health at work of pregnant employees and employees who have recently given birth or are breastfeeding,

j) Council Directive 96/34/EC K on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC.”

Article 42

(1) The text “in the banning of negative discrimination [Article 5 (1)-(2) and (4)],” in Article 60 (3) a) of Act XXIII of 1992 on the legal status of civil servants (hereinafter: CSA) shall be replaced by “the principle of equal treatment” (Article 5 of the LC),”.

(2) Article 71 (2) a) of the CSA shall be replaced by the following:

„(The following provisions of the Labour Code shall apply as appropriate:)

a) Article 3 (1)-(4) , Article 4, Articles 5-12, Articles 15-19/A, Articles 21-28, Article 70/A, Article 74, Article 77, Article 84/A, Article 85, Articles 86/B-86/D, Article 97, Article 102 (1)-(3) , Article 103 (1)-(2) and (4) , Article 104 (4)-(5) , Article 107, Article 117 (1) , Article 117/B (5) , Article 118 (2) , Article 118/A (4)-(5) , Article 119 (1)-(2) and (5), Articles 120-121, Articles 123-126, Article 127 (1)-(2) and (6)-(7), Article 128 (1), Article 129, Article 130 (2) , Article 132 (1)-(3) , Article 133, Article 135-140/A, Article 142/A, Article 144 (1) , Article 151 (2)-(4) , Article 152-153, sentences 1 and 3 of Article 154 (1), Article 155-157, Articles 159-164, Article 165 (2), Article 166 (2) , Article 167 (1) és (3) , Articles 168-169, Articles 171-172, Article 174, Articles 176-183, Article 184 (1)-(2) , Article 185-187, Article 204-205, Article 207;”

Article 43

In Article 34 (3) a) of Act XXXIII on the legal status of public servants the text „in the banning of negative discrimination (Article 5 of the Labour Code),” shall be replaced by “in the principle of equal treatment (Article 5 of the Labour Code),”.

Article 44

The first sentence of Article 94/E (2) of Act III of 1993 on social administration and social benefits shall be replaced by the following:

“The principle of equal treatment shall be observed in providing social services.”

Article 45

(1) Article 4 (7)-(14) of Act LXXIX of 1993 on public elementary education (hereinafter: PEA) shall be repealed, and paragraph (15) shall be renumbered as paragraph (7).

(2) The following new Article 4/A shall be added to the PEA:

“Article 4/A (1) Those involved in the organisation, administration, operation and performance of duties of elementary education shall observe the principle of equal treatment in their decisions and measures related to children and pupils.

(2) Pursuant to the principle of equal treatment, every child or pupil has the right to receive care of the same standard and subject to the same conditions as others whose situation is comparable to that of the child or pupil.

(3) The consequences of the violation of the principle of equal treatment shall be remedied as appropriate, and shall not entail the violation or derogation of other children’s or pupils’ rights.

(4) The violation of the principle of equal treatment can be remedied in the scope of the procedure regulated in this Act. Irrespective of its outcome, conducting a procedure regulated in this Act does not exclude the possibility of enforcing the rights related to the individual before the courts, or initiating another procedure suitable for establishing responsibilities and its legal consequences.

(5) When applying this Article, the provisions of Act on equal treatment shall also apply.”

(3) In Article 84 (7) of the PEA, the text “conflicting with the banning of negative discrimination” shall be replaced by “violating the principle of equal treatment”, and in Article 95/A (4) the text “to the banning of negative discrimination” shall be replaced by “to the principle of equal treatment”.

Article 46

In Article 6 (1) of Act LXXX of 1994 on the status of public prosecutors and the management of prosecution data the text “to the banning of negative discrimination” shall be replaced by “to the principle of equal treatment”.

Article 47

In Article 40 (5) of Act XL of 1995 on public procurements the text “causing their unjustified and negative discrimination in any other manner” shall be replaced by “violates the principle of equal treatment”.

Article 48

(1) Article 6 of Act XLIII of 1996 on the Service of Professional Members of the Armed Forces (hereinafter: AFA) and the previous subtitle shall be replaced by the following:

“Principle of equal treatment

Article 6 (1) The principle of equal treatment shall be observed in respect of the service relationship.

(2) The armed forces shall, without discrimination, ensure the opportunity for career advancement to members of the regular armed forces solely on the basis

of professional skills, experience, performance and time spent in service, taking into consideration the constraints applicable to rank and position.”

(2) In Article 197 (7) of the AFA ”in the banning of negative discrimination” shall be replaced by “in the principle of equal treatment”.

Article 49

(1) Article 16 (4) of Act of XLIV of 1996 on the conditions of national military service (hereinafter: NMSA) shall be replaced by the following:

“(4) Attendance of, or abstaining from, spiritual nurturing and attendance of, or abstaining from religious ceremonies shall not result in the violation of the principle of equal treatment.”

(2) Article 30 (2) of the NMSA shall be replaced by the following:

“(2) His membership in a labour organisation or the lack thereof shall not result in the violation of the principle of equal treatment in respect of the soldier doing his national service.”

Article 50

(1) In Article 1 (2) a) of Act LXXV of 1996 on the supervision of labour affairs (hereinafter: LASA) the text “banning of negative discrimination” shall be replaced by “principle of equal treatment”.

(2) Article 3 (1) d) of the LASA shall be replaced by the following:

“d) principle of equal treatment,”

(3) Article 8 (4) of the LASA shall be repealed.

Article 51

Article 61 of Act CXVI of 1996 on atomic energy shall be replaced by the following:

“Article 61 The provisions of this Chapter shall be applied observing the principle of equal treatment.”

Article 52

Article 3 (2) of Act XXXI of 1997 on child protection and legal guardianship shall be replaced by the following:

“(2) The principle of equal treatment shall be observed in the course of protecting children.”

Article 53

Article 2 of Act CXL of 1997 on museum institutions, the supply of public libraries, and public education shall be replaced by the following:

“Article 2 The rights set out herein shall be enforced observing the principle of equal treatment.”

Article 54

(1) In Article 7 (1) of Act CLIV of 1997 on Health (hereinafter: HA) the text “without discrimination” shall be replaced by “complying with the principle of equal treatment”, and Article 7 (4) shall be repealed.

(2) In Article 9 (4) of the HA the text “negative discrimination” shall be replaced by “the violation of the principle of equal treatment”.

(3) Article 30 (5) of the HA shall be replaced by the following:

„(5) The patient advocate shall pay special attention to representing the rights of patients at a disadvantage due to their age, physical or mental disability, health status or social situation and to complaints concerning the enforcement of the principle of equal treatment, and shall be authorised to represent the patient during official procedures aimed at establishing the violation of the principle.”

Article 55

Article 25 (6) of Act XXVI of 1998 on the rights of and equal opportunities for disabled persons shall be replaced by the following:

„(6) The National Disability Council and the national interest representation organisations may also initiate procedures against those violating the rights of disabled persons granted by law and with a view to enforcing the rights of disabled persons if the infringement concerns a larger group of people that cannot be precisely defined.”

Article 56

(1) Article 1 (1) of Act XLIII of 1999 on cemeteries and burials (CBA) shall be replaced by the following:

„(1) Every person is entitled to a proper and dignified funeral and to the paying of respects at the deceased’s resting place.”

(2) Article 17 (2) of the CBA shall be replaced by the following:

„(2) The operator shall observe the principle of equal treatment in respect of funeral service providers.”

Article 57

(1) In Article 90 (1) of Act LXXVI of 1999 on copyrights (hereinafter: CRA) the text “also enforced without unjustified discrimination” shall be replaced by “complying with the principle of equal treatment”.

(2) Article 90 (4) of the CRA shall be replaced by the following:

“(4) The principle of equal treatment shall be observed in the application of the tariff rates.”

Article 58

The last sentence of Article 46 (2) of Act CXLI of 2000 on new cooperatives shall be repealed, and Article 51 shall be supplemented by the following paragraph (3):

“(3) The principle of equal treatment shall be observed when admitting members and laying down the rights and obligations thereof.”

Article 59

Article 6 and the previous subtitle of Act XCV of 2001 on the legal status of the professional and contracted military personnel shall be replaced by the following:

“Principle of equal treatment

Article 6 The principle of equal treatment shall be observed in respect of the service relationship.”

Article 60

(1) In the Preamble of Act CX of 2001 on electricity (hereinafter: EA) the text “without negative discrimination” shall be replaced by “in compliance with the principle of equal treatment”.

(2) In Article 33 (1) of the EA the text “without applying negative discrimination” shall be replaced by “without prejudice to the principle of equal treatment”.

(3) In Article 43 (3) of the EA the text “shall not apply negative discrimination” shall be replaced by “shall observe the principle of equal treatment”.

(4) Article 50 (2) of the EA shall be replaced by the following:

„(2) The principle of equal treatment shall be observed during the approval procedure.”

Article 61

(1) In Article 69 (3) of Act CXX of 2001 on the capital market (CMA) the text “contains any negative discrimination or would result in such discrimination” shall be replaced by “violates the principle of equal treatment”.

(2) In Article 74 (4) of the CMA the text “make a negative discrimination” shall be replaced by “to violate the principle of equal treatment”.

(3) The second sentence of Article 225 (2) of the CMA shall be replaced by the following:

“The Regulation must not violate the principle of equal treatment in respect of the individual members of the Fund and must not jeopardise the safe management of the Fund.”

(4) Article 317 (5) of the CMA shall be replaced by the following:

“(5) The stock exchange regulations shall observe the principle of equal treatment in terms of individual traders and issuers.”

(5) Article 345 (4) of the CMA shall be replaced by the following:

“(4) The business rules and regulations shall ensure that the principle of equal treatment is observed in respect of the clients of the organisation operating as a clearing house.”

Article 62

In Article 30 (3) of Act XLII of 2003 on the supply of natural gas the text “free of negative discrimination” shall be replaced by “complying with the principle of equal treatment”, in Article 30 (5) the text “must not contain unjustified discrimination” shall be replaced by “must not violate the principle of equal treatment”, and in Article 33 (15) the text “observing the banning of negative discrimination” shall be replaced by “observing and in compliance with the principle of equal treatment”.

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

(3) Article 31-34 shall come into force on 1 January 2004.

(4) The Government shall present the National Equal Opportunities Programme for the first time to the Parliament in sufficient time so that it can come into force on 1 January 2005.

(5) The equal opportunities plans under Article 36 of this Act shall be accepted for the first time by 31 December 2004 at the latest.

Article 64

The Government is granted authority to lay down the detailed rules applicable to the organisation and procedure of the Authority in a decree.

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 in Act I of 1994, compatible with the following legal acts of the European Union:

- 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.