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*European Commission
B-1049 Brussels*

Country report

Non-discrimination

Transposition and implementation at national level of
Council Directives 2000/43 and 2000/78

Hungary

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Reporting period 1 January 2025 – 1 January 2026

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EXECUTIVE SUMMARY

1. Introduction

Hungary is a country of around 10 million people. Fifteen years after its political transition into democratic pluralism, Hungary became a member of the EU. The creation of democratic laws and institutions has been accompanied by increasing awareness of the principle of equal treatment, but the issue of discrimination was brought to light by the debates generated by the process leading to the adoption of a comprehensive anti-discrimination law in late 2003 – Act CXXV of 2003 on equal treatment and the promotion of equal opportunities (ETA).¹ The law established the Equal Treatment Authority (Authority) – a body responsible for combating discrimination in all sectors and with regard to all grounds. Until it was merged into the Office of the Commissioner for Fundamental Rights (Ombudsman) at the end of 2020 (see below), the Authority's activities and strategic litigation by NGOs further raised awareness of equal treatment and the situation of the groups most exposed to discrimination.

The group most vulnerable to discrimination is the Roma population. The only 'visible' ethnic minority in Hungary constitutes 6–9 % of the country's population.² Despite positive legislative changes and significant amounts spent on integration programmes, Roma people still face deeply rooted discrimination in education, employment, healthcare, housing and access to goods and services, and they are greatly overrepresented in the poorest layers of society.³

Similarly, despite a relatively detailed and seemingly progressive legal framework, persons with disabilities also face discrimination (including the failure to guarantee accessibility and reasonable accommodation of their specific needs) in many areas of life, such as education, employment and access to services. Although a legal framework promoting the integrated education of children with disabilities is in place, many educational institutions fail – primarily due to a lack of financial and human resources – to provide the conditions required for their successful integration.

An important issue in relation to the political and social context is the persistent anti-LGBTIQ campaign carried out by high-ranking Government officials and the ruling party. In late 2020, the Prime Minister stigmatised the LGBTIQ community by linking LGBTIQ orientations and identities with paedophilia and making a distinction between 'Hungarians' and 'homosexuals' in a radio interview. The rhetoric was followed by specific measures and legislation, including the passing of Act LXXIX of 2021⁴ in June 2021, which banned any advertisement or media content that 'promotes or portrays deviation from [gender] identity aligning with sex at birth, gender reassignment, or homosexuality' from being made available to persons under the age of 18. The Act also amended Act CXC of 2011 on national public education (the National Public Education Act)⁵ to provide that sessions delivered in educational institutions on sexual culture, sexual life, sexual orientation or

¹ Act CXXV of 2003 on equal treatment and the promotion of equal opportunities, (2003. évi CXXV. törvény az egyenlő bánásmódról és az esélyegyenlőség előmozdításáról) (ETA), 28 December 2003, http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0300125.TV.

² See among others: Pásztor, I. Z. and Péntes, J. (2018) 'The Number and Situation of the Roma Population in Light of a Survey From North-Eastern Hungary', *Földrajzi Közlemények* (Geographical Bulletin), 142.2., pp. 154-169, available at: https://www.foldrajzitasasag.hu/downloads/foldrajzi_kozlemenyek_2018_142_evf_2_pp_154.pdf.

³ Hungarian Government (2021), *Magyar Nemzeti Társadalmi Felzárkózási Stratégia 2030*, (Hungarian National Strategy for Social Inclusion 2030), p. 108. <https://ec.europa.eu/info/sites/default/files/mntfs2030.pdf>.

⁴ Act LXXIX of 2021 on harsher action against paedophile criminal perpetrators and the amendment of certain laws with a view to protecting children (2021. évi LXXIX. törvény a pedofil bűnelkövetőkkel szembeni szigorúbb fellépésről, valamint a gyermekek védelme érdekében egyes törvények módosításáról), <https://net.jogtar.hu/jogszabaly?docid=A2100079.TV×hift=20220201&txtreferer=00000003.txt>, 23 June 2021.

⁵ Act CXC of 2011 on national public education (2011. évi CXC. törvény a nemzeti köznevelésről) (National Public Education Act), 29 December 2011, http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1100190.TV.

sexual development must not be aimed at promoting deviation from the child's gender identity aligning with sex at birth, gender reassignment or homosexuality. On 15 July 2021, the Commission launched infringement proceedings against Hungary in relation to the new legislation,⁶ which – according to the June 2025 Opinion of AG Ćapeta⁷ – infringes EU law, including Article 2 of the Treaty on European Union (TEU) setting out the European Union's fundamental values. 16 Member States and the European Parliament intervened in the proceedings in support of the Commission.⁸

These developments have been used by the Government to tie Hungary's debates with the European Union institutions to the accusation that under the pretext of sensitisation, the organisations offering such educational sessions are in fact trying to provide LGBTIQ activists with access to educational institutions so that they could spread 'gender propaganda' to children, and they are assisted in this effort by EU institutions.⁹

In 2025, the hostile rhetoric continued, as did the adoption of anti-LGBTIQ legislation. Among other such legislative changes and restrictions (described in more detail in section 7.2.), Act V of 2025 on Certain Legislative Amendments related to the 15th Amendment of the Fundamental Law¹⁰ amended the ETA, deleting 'gender identity' from the list of protected grounds, and at the same time replacing the term 'sex' with the term 'sex and corresponding identity' in the list, which has significantly weakened the legal protection of trans people against discrimination.

2. Main legislation

Hungary has ratified almost all the major international instruments combating discrimination, with some exceptions, namely: Protocol No. 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms; the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; and the collective complaints protocol of the Revised European Social Charter.

The cornerstone of the legislation is the general anti-discrimination clause of the Fundamental Law of Hungary¹¹ adopted in 2011. This general ban is detailed by the ETA. Sectoral laws (e.g. civil law, labour law) refer to the provisions of the ETA in discrimination-related instances, which creates consistency within the system. The ETA covers all five grounds included in the EU directives and in some respects goes beyond the requirements of the directives.

The protection provided by the ETA is amplified by the Civil Code,¹² which lists the right to non-discrimination as an 'inherent personality right' (i.e. a right that is inalienably attached to the human personality) and prescribes specific sanctions for the infringement of such a right, and by a number of other laws (e.g. the law on consumer protection). The

⁶ European Commission (2021), 'EU founding values: Commission starts legal action against Hungary and Poland for violations of fundamental rights of LGBTIQ people', 15 July 2021, https://ec.europa.eu/commission/presscorner/detail/en/ip_21_3668.

⁷ Court of Justice of the European Union (2025), 'EU values: Advocate General Ćapeta considers that, by prohibiting or restricting access to LGBTI content, Hungary infringed EU law', press release, 5 June 2025, <https://curia.europa.eu/site/upload/docs/application/pdf/2025-06/cp250064en.pdf>.

⁸ See for example *Reuters* (2023), 'Germany, France join EU proceedings against Hungary over anti-LGBT law', 6 April 2023, <https://www.reuters.com/world/europe/germany-france-join-eu-proceedings-against-hungary-over-anti-lgbt-law-2023-04-06/>.

⁹ See: 444 (2021) 'Orban initiates "child protection" referendum', 21 July 2021, <https://444.hu/2021/07/21/orban-gyermekevedelmi-nepszavazast-kezdemenyez>.

¹⁰ Act V of 2025 on Certain Legislative Amendments related to the 15th Amendment of the Fundamental Law (2025. évi V. törvény az Alaptörvény tizenötödik módosításával összefüggő egyes törvénymódosításokról), 14 April 2025, <https://njt.hu/jogszabaly/2025-5-00-00>.

¹¹ The Fundamental Law of Hungary (*Magyarország Alaptörvénye*), 25 April 2011, http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1100425.ATV.

¹² Act V of 2013 on the Civil Code (2013. évi V. törvény a Polgári Törvénykönyvről), 26 February 2013, http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1300177.TV.

institutional framework established by the ETA is augmented by statutes governing the operation of institutions with functions aimed at combating discrimination.

3. Main principles and definitions

The ETA specifies definitions for both direct and indirect discrimination. The definitions are largely but not fully based on the concepts used by the directives. Harassment, instruction to discriminate and victimisation are defined and outlawed in the Hungarian system. Discrimination by assumption is expressly banned, whereas discrimination based on association is acknowledged by the jurisprudence.¹³

The ETA distinguishes between three types of cases where differentiation is acceptable: (i) a general objective justification; (ii) special exceptions; and (iii) positive action. The general objective justification clause makes a distinction on the basis of the right affected by the differentiation. If this right is a fundamental one, the differentiation may only be exempt if its aim is the enforcement of another fundamental right, provided that the differentiation is absolutely necessary, suitable for achieving the aim and proportionate. When the differentiation concerns a right that is not deemed to be fundamental, it is allowed by the law if it is found by objective consideration to have a reasonable ground directly related to the relevant legal relation. There are also special exempting rules related to different sectors, such as employment or education. Legislation exempting organisations based on a religious ethos (such as denominational schools) may go beyond what can be regarded as an appropriate transposition of Directive 2000/78. The third exception from the requirement of equal treatment is positive action.

Discrimination on all the grounds listed in Article 19 of the Treaty on the Functioning of the European Union (TFEU) is expressly prohibited but Hungarian national law covers other grounds as well. The ETA contains a list of the protected grounds. After the removal of 'gender identity' as an expressly protected ground, it now features 18 grounds, including sex and corresponding identity,¹⁴ national origin (also encompassing ethnic origin), disability, state of health, religious or other similar philosophical conviction, sexual orientation, motherhood, age and financial status. The list is not exhaustive (the last item of the list is 'any other situation, attribute or condition'), so grounds not explicitly identified are also covered. Harassment, instructions to discriminate and victimisation are clearly outlawed. Neither instructions to discriminate, nor discrimination by association is expressly defined, but the concepts are applied in case law.

The concept of multiple or intersectional discrimination is not known in Hungarian legislation. However, there are some cases in which the concepts are applied.¹⁵

The ETA does not establish a *sui generis* duty to provide reasonable accommodation for persons with disabilities, but labour law recognises the obligation. In terms of the relevant jurisprudence, the failure to comply with statutory requirements aimed at evening out existing disadvantages of persons or groups with protected grounds amounts to discrimination.

¹³ See, for example: Ombudsman, [EBF-AJBH-28/2022](#), December 2022, and other cases quoted in section 2.3.

¹⁴ The term 'corresponding identity' was inserted into the ETA by Act V of 2025, the law removing the ground 'gender identity' from the ETA. The law's explanatory memorandum does not provide any detailed explanation regarding the meaning of this term. It only says that these amendments were necessary to harmonise the terminology of the ETA with Article L of the Fundamental Law. The amended Article L of the Fundamental Law states that a human being is either a man or a woman. The Fundamental Law also makes a reference to a person's 'identity corresponding to their sex at birth (Article XVI). From this it may be inferred that the legislator's intention was to only provide protection on the basis of gender identity if that corresponds to a person's sex at birth, i.e. to deprive transgender persons of the legal protection or at least lower the level of protection (for more information on these amendments, see section 7.2).

¹⁵ See, for example: Case No. [EBH/130/2017](#) of the Equal Treatment Authority, 7 August 2017.

Both the equality body and the courts apply the concepts of direct discrimination, indirect discrimination, harassment and segregation. The application of these concepts has become more or less unproblematic since the ETA came into force more than 20 years ago.

4. Material scope

The ETA approaches the issue of scope from the personal rather than the material aspect. It prohibits any discrimination in all spheres of the public sector, so in this respect its scope is in fact broader than that of the equality directives. In the private sector, only four groups of actors fall under the scope of the ETA: (i) those who make a public proposal for contracting (e.g. for renting out an apartment) or call for an open tender; (ii) those who provide services or sell goods at premises open to customers; (iii) entities receiving state funding in respect of their legal relations established in relation to the usage of the funding; and (iv) employers with respect to employment (interpreted broadly).

Although it is not easy to identify a field listed in the directives where a private actor who falls under the personal scope of the directives does not fall under the personal scope of the Hungarian legislation, and although the European Commission closed infringement procedures against Hungary concerning Directives 2000/43/EC and 2000/78/EC, such discrepancies may arise (e.g. harassment by colleagues). However, there is no relevant case law in this area.

5. Enforcing the law

When there is a case of discrimination, victims may choose to seek remedy from among a number of options, depending partly on the field where the discrimination has occurred. They can turn to (i) the civil court; (ii) the labour court; (iii) the Ombudsman (as equality body); (iv) the administrative bodies authorised to sanction discrimination (e.g. the consumer protection authority); (v) the regional Government office (to initiate a petty offence procedure in education). These sanctions apply to all five grounds of discrimination, and the key principle is that the victim is allowed to decide which authority to turn to.

It is possible for a victim of discrimination to initiate a procedure before the Ombudsman, or any other administrative body before bringing a lawsuit based on the Civil Code or the Labour Code.¹⁶ If, however, a complainant initiates a case before a court, administrative bodies, including the Ombudsman will have to suspend their proceedings and base their decision on facts as established by the court. The sanctions that may be imposed by the Ombudsman do not provide the victim with compensation, so if a complainant wishes to be granted damages as well, they still need to go to court.

As they exist in the legal system, the sanctions can potentially be applied in a proportionate, effective and dissuasive manner. Compliance with the requirements of the EU *acquis* therefore primarily depends on how the sanctions are used by the courts and authorities. In this regard, there has been some improvement in recent years, as courts have started to move from obliging respondents in general terms to stop discriminatory practices towards prescribing specific measures to be taken, however, this trend may come to a halt due to a controversial 2023 decision of the Kúria regarding the non-applicability of civil law regarding discriminatory omissions of state bodies.¹⁷

The ETA guarantees the right of associations to engage, either on behalf of or in support of victims of discrimination: any non-governmental and interest representation organisation with a legitimate interest may engage on behalf of the victim in proceedings

¹⁶ Act I of 2012 on the Labour Code (2012. évi I. törvény a munka törvénykönyvéről), 6 January 2012, http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1200001.TV.

¹⁷ See: EELN (2023), 'Flash report: Hungary', 8 August 2023: <https://www.equalitylaw.eu/downloads/5907-apex-court-decision-regarding-state-bodies-lack-of-liability-for-failure-to-provide-supported-housing-for-people-with-disabilities-despite-statutory-obligation>.

initiated due to the infringement of the requirement of equal treatment. Non-governmental and interest representation organisations are also entitled to the rights of the concerned party in such administrative proceedings.

Associations can also launch *actio popularis* claims. If the principle of equal treatment is violated or there is a direct danger thereof, a lawsuit for the infringement of inherent personality rights or a labour lawsuit may be brought by any non-governmental and interest representation organisation (as well as the Public Prosecutor and the Ombudsman), if the violation of the principle of equal treatment or the direct danger thereof was based on a characteristic that is an essential feature of the individual, and the violation affects a larger group of persons that cannot be accurately determined. This instrument has been resorted to in a number of cases, including in relation to segregation of Roma pupils in education.¹⁸

The ETA shifted the burden of proof with regard to all discrimination cases with the exception of criminal and quasi-criminal procedures.

Different fields (education, access to goods and services) still operate with different sanctions against discrimination that may be applied by the specific administrative bodies in the given field. Some degree of consistency is provided by the equality body, which may impose a fine in cases of discrimination regardless of the sector in which it occurs, and by the civil courts, which have a general competence to oblige discriminators to pay non-pecuniary and pecuniary damages to the victims.

The ETA also introduced statutory acknowledgment of situation testing. The relevant provision expressly authorises the equality body to conduct testing in the course of its investigations and to take its result into consideration as evidence when making a decision (while the ETA does not contain an express authorisation for situation testing in relation to NGOs, such organisations may avail themselves of this evidentiary possibility, and the equality body takes the results into account as evidence on the basis of the principle of the free assessment of evidence).

The ETA allows for positive action (on the basis of acts of Parliament, decrees of Government and collective agreements), and positive measures have indeed been implemented (e.g. preferential treatment of Roma and persons with disabilities in education, quotas for persons with disabilities in employment).

Dialogue with NGOs and social partners on discrimination-related matters was primarily conducted by the Equal Treatment Authority. A series of training sessions, workshops and conferences was held within the context of a four-year programme supported by the European Commission and the Hungarian state. However, the intensity of the dialogue could not be sustained after the extra funding ended in 2014. As the current equality body, the Ombudsman is much less accessible to civil society organisations than his predecessor was.

6. Equality bodies

The specialised body for the promotion of equal treatment irrespective of racial or ethnic origin (Equal Treatment Authority) was established by the ETA and began operation on 1 February 2005. It was an autonomous public administrative body with overall responsibility for ensuring compliance with the principle of equal treatment. The Authority was abolished as of 1 January 2021, and its tasks and competences were transferred to the Ombudsman. Several bodies, including domestic NGOs representing protected groups¹⁹

¹⁸ See for instance the cases of the Chance for Children Foundation described in Section 6.5 of this report.

¹⁹ MEOSZ (National Federation of Organisations of People with a Physical Disability) (2020) 'MEOSZ says effective enforcement could be jeopardised by the abolition of the Equal Treatment Authority', press release, 16 November 2020, <http://www.meosz.hu/blog/a-meosz-szerint-veszelybe-kerulhet-a-hatekony->

and ILGA Europe²⁰ criticised the plan, fearing that it would mean an organisational 'downgrading' of the issue of non-discrimination, given that this had been the single focus of and mandate for the Authority, whereas within the large multi-mandate organisation of the Ombudsman's Office, non-discrimination was much less likely to be paid sufficient attention. However, the law was passed without any meaningful consultation.

The developments justify the concerns: there has been a radical decrease in the number of complaints submitted to the Ombudsman, and the equality body's visibility has been reduced. The European Commission for Democracy through Law (Venice Commission) of the Council of Europe examined the merger and also expressed concerns over a number of issues, including the understaffing of the unit responsible for the equality mandate.²¹

The equality body is entrusted with all the powers required by the Racial Equality Directive. It may/shall among other things: (i) conduct complaint-based or *ex officio* investigations to establish whether the principle of equal treatment has been violated, and, if necessary, apply sanctions; (ii) initiate lawsuits with a view to protecting the rights of persons and groups whose rights have been violated; (iii) make proposals concerning governmental decisions and legislation pertaining to equal treatment; (iv) regularly inform the public about the situation concerning the enforcement of equal treatment; (vi) provide information to those concerned and offer assistance in acting against the violation of the principle of equal treatment.

7. Key issues

In the author's view, the domestic legal framework is not fully in line with the directives in some areas. The most important problems may be summarised as follows:

- The requirement of equal treatment applies only to a restricted circle of private actors. Therefore, with regard to the sectors falling under the material scope of the directives, Hungarian law may be in breach of the *acquis* as it does not impose on all private actors the obligation of non-discrimination (e.g. fellow employees may not be called to account for harassment under the ETA).
- The ETA allows for objective justification in certain cases of direct discrimination.
- The special exempting clauses contain certain inconsistencies, unjustified distinctions between certain grounds and wider possibilities for exemption than allowed by the directives.
- Depending on judicial interpretation, some provisions of the law governing churches and religion²² and the National Public Education Act²³ may give rise to a contradiction between domestic and EU law in relation to organisations with a religious ethos, as

[jogervenyesites-az-ebh-megszuntetesevel/](#); Civilisation Coalition (2020) 'The merger of the Equal Treatment Authority into the Office of the Commissioner for Fundamental Rights is a very bad step', press release, 19 November 2020, <https://civilizacio.net/hu/hirek-jegyzetek/nagyon-rossz-lps-az-egyenl-bnsmd-hatsag-beolvasztasa-az-alapvet-jogok-biztosnak-hivatalba>; and Telex (2020) 'Several disability organisations are protesting against the merger of the Equal Treatment Authority', news article, 24 November 2020, <https://telex.hu/belfold/2020/11/24/ebh-aosz-mvgyosoz-meosz-tiltakozas-targyalas>.

²⁰ ILGA Europe (2020) 'ILGA-Europe is alarmed by Hungarian Parliament's moves to abolish the national Equal Treatment Authority', press release, 10 November 2020, <https://www.ilga-europe.org/resources/news/latest-news/ilga-europe-alarmed-hungarian-parliaments-moves-abolish-national-equal>.

²¹ Venice Commission (2021), *Hungary - Opinion on the amendments to the Act on Equal Treatment and Promotion of Equal Opportunities and to the Act on the Commissioner for Fundamental Rights as adopted by the Hungarian parliament in December 2020*, Opinion 1051/2021, <https://www.coe.int/en/web/venice-commission/-/opinion-1051>.

²² Act CCVI of 2011 on the right to freedom of conscience and religion and the legal status of churches, denominations and religious communities (2011. évi CCVI. törvény a lelkiismereti és vallásszabadság jogáról, valamint az egyházak, vallásfelekezetek és vallási közösségek jogállásáról), 31 December 2011, <https://net.jogtar.hu/jogszabaly?docid=A1100206.TV>.

²³ Act CXCV of 2011 on national public education (2011. évi CXCV. törvény a nemzeti köznevelésről), 29 December 2011, http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1100190.TV.

- they provide such organisations with unqualified and unconditional rights to make differentiations in recruitment.
- The exclusion of workers of pension age from a severance payment and the capping by the Labour Code of damages that may be granted in cases where an employee is dismissed in a discriminatory manner may be in violation of the relevant Court of Justice of the European Union (CJEU) jurisprudence.
 - The obligation of reasonable accommodation has not been unambiguously transposed into Hungarian law. The problem is especially acute with regard to employing persons with disabilities, as the requirement of reasonable accommodation seems to be guaranteed only in relation to the recruitment procedure, but does not expressly prescribe reasonable efforts to adapt the workplace to the specific needs of persons with disabilities to promote their actual employment. Furthermore, as a result of a 2023 judgment of the Kúria, the obligation of reasonable accommodation as interpreted by the Hungarian jurisprudence is in breach of the *acquis*. The Kúria's judgment concludes that employers are not under obligation to offer a transfer to another position if an employee's disability prevents them from continuing in their old position (placing it at odds with the CJEU's judgments in the *HR Rail SA* case²⁴ and the *Ca Na Negreta SA* case²⁵), and the Kúria decision is based on an argument that also seems to hollow out any obligation on the employer to adapt to the reasonable needs of a job seeker with a disability in order to facilitate their access to employment.
 - The 2021 amendment excluding the possibility of demanding financial compensation for the violation of inherent personality rights (including segregation and other forms of discrimination) committed by educational institutions, is disadvantageous to the victims, since it reduces their freedom of choice regarding the types of sanctions they can request the courts to apply, and deprives them of the possibility of claiming a particularly effective type of sanction that is available to all other persons in a similar situation. It disproportionately concerns Roma pupils, as the majority of known cases of inherent personality rights violations committed by educational institutions are segregation cases. The amendment has reduced the dissuasiveness of the system of sanctions, raising a possible breach of the requirements provided by Articles 6 and 15 of the Racial Equality Directive and, in relation to vocational training, Articles 8 and 17 of Directive 2000/78.
 - In the author's view, the abolition of the Equal Treatment Authority and the transfer of its mandate and powers to the Ombudsman organisationally 'downgrade' the issue of non-discrimination by vesting a multi-focus body with the task of combating discrimination instead of it being the responsibility of the Authority, for which it was the single focus and mandate. This has thus decreased the level of protection against discrimination in Hungary. In the author's view, this means a potential violation of the non-regression clause of Directive 2000/43.

Further issues of concerns are the following:

- Accessibility to public premises and services is incomplete, although the obligation to guarantee persons with disabilities an accessible environment has been in place for over a decade.
- The degree of segregation of Roma pupils/students in education has been rising steadily. Legislative amendments regarding when and how separate education for majority and minority children is allowed and what role denominational schools may play in such arrangements do not seem conducive to reversing these trends.
- High-ranking Government officials and representatives of the ruling party have been using increasingly hostile rhetoric towards vulnerable minority groups, including the Roma minority group and LGBTIQ persons. The communication was followed in 2025 by another wave of hostile legislation curbing the rights of these groups.

²⁴ Judgment of 10 February 2022, *HR Rail SA*, C-485/20, ECLI:EU:C:2022:85.

²⁵ Judgment of 18 January 2024, *Ca Na Negreta SA*, C-631/22, ECLI:EU:C:2024:53.

Good practices:

- After-school education programmes (AEPs) are a specific form of education organised for underprivileged children with the aim of promoting their success in education. They offer extracurricular programmes to compensate for the fact that schools rarely have the resources to effectively help underprivileged children to 'catch up'.
- Jurisprudence is evolving when it comes to judicial decisions obliging respondents to end systemic discrimination. Following Judgment No. Pfv.IV.20.085/2017 of the Kúria upholding a judicial order to close down a segregated school, Hungarian courts seem to be moving away from the interpretation that they may only declare the existence of systemic discrimination and order in general terms, without specifying the 'how', that the respondent should put an end to the discrimination. In an increasing number of cases, courts have started to prescribe specific measures to be taken in order to enforce the requirement of equal treatment. However, it must be pointed out that this positive trend may come to a halt due to a controversial 2023 decision of the Kúria regarding the non-applicability of civil law regarding discriminatory omissions of state bodies.

The use of artificial intelligence in relation to the implementation of the national legislation transposing the directives has not so far been raised as an issue in Hungarian legislation or jurisprudence.

INTRODUCTION

The national legal system

The Hungarian legal system is a continental legal system that primarily follows German legal traditions. It is governed by a strict statutory hierarchy in which lower-level statutes must not be in contradiction with higher-ranking statutes.

The most important principles are laid down by the Fundamental Law and the constitutional rules are augmented by laws, while detailed regulation is provided by Government and ministerial decrees. The coherence of the system is guarded by the Constitutional Court, which may annul any statute that is in contradiction with the Fundamental Law (with the exception of legislation relating to certain issues, such as the state budget).

The system is structured into legal fields (e.g. criminal law, civil law, labour law, administrative law) with most fields having their own procedural codes.

The judicial system has two levels (first instance and appeal level). However, extraordinary remedies (such as a review by the Kúria, Hungary's Supreme Court) are also available. (In criminal proceedings, an ordinary third instance appeal is also available in certain cases.) There is also the possibility of a judicial review of administrative decisions.

While international human rights treaties are integrated into the domestic legal system through their promulgation in the form of acts of Parliament, courts, as a rule, refuse to apply them directly. They are applied as points of reference at times if concurring interpretation of domestic law is possible.

List of main legislation transposing and implementing the directives

Official title of the law: Fundamental Law of Hungary²⁶ (Article XV)

Name used in this report (*if different from above*): Fundamental Law

Abbreviation: N/A

Date of adoption: 25 April 2011

Latest amendment: 1 January 2026

Entry into force: 1 January 2012

Web link: http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1100425.ATV

Grounds covered: race, colour, gender, disability, language, religion, political or other opinion, national or social origin, financial, birth or any other status

Constitutional law

Material scope: All fields

Principal content: General constitutional prohibition of discrimination

Official title of the law: Act CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities²⁷

Name used in this report (*if different from above*): Equal Treatment Act or ETA

Abbreviation: N/A

Date of adoption: 28 December 2003

Latest amendment: 25 April 2025

Entry into force: 27 January 2004

Web link:

http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0300125.TV&celpara=#xcelparam

²⁶ The Fundamental Law of Hungary (*Magyarország Alaptörvénye*), 25 April 2011, http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1100425.ATV.

²⁷ Act CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities (2003. évi CXXV. törvény az egyenlő bánásmódról és az esélyegyenlőség előmozdításáról), 28 December 2003, http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0300125.TV.

Grounds covered: a) sex and corresponding identity, b) racial affiliation, c) colour of skin, d) nationality (not in the sense of citizenship), e) belonging to a national minority, f) mother tongue, g) disability, h) health condition, i) religion or belief, j) political or other opinion, k) family status, l) maternity (pregnancy) or paternity, m) sexual orientation, n) --, o) age, p) social origin, q) financial status, r) part-time nature of employment legal relation or other legal relation aimed at labour, or determined period thereof, s) belonging to an interest representation, t) any other situation, attribute or condition of a person or group.

Civil and administrative law

Material scope: All, with a special focus on employment (public and private), social protection and healthcare, housing, education, access to goods and services

Principal content: Prohibition of direct and indirect discrimination, victimisation, instruction to discriminate, harassment, etc.; creation of a specialised body; shift of the burden of proof; legal standing of associations; sanctions on discrimination

Official title of the law: Act V of 2013 on the Civil Code²⁸

Name used in this report (*if different from above*): Civil Code

Abbreviation: N/A

Date of adoption: 26 February 2013

Latest amendment: 24 December 2025

Entry into force: 15 March 2014

Web link:

http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1300005.TV&celpara=#xcelparam

Grounds covered: All

Civil law

Material scope: All

Principal content: Prohibition of discrimination; sanctions on discrimination

Official title of the law: Act I of 2012 on the Labour Code²⁹

Name used in this report (*if different from above*): Labour Code

Abbreviation: N/A

Date of adoption: 6 January 2012

Latest amendment: 28 February 2025

Entry into force: 1 July 2012

Web link:

http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1200001.TV&celpara=#xcelparam

Grounds covered: All

Labour law

Material scope: All

Principal content: Employment

Official title of the law: Act XXVI of 1998 on the Rights of Persons with Disabilities and the Guaranteeing of their Equal Opportunities³⁰

Name used in this report (*if different from above*): RPD Act

Abbreviation: N/A

Date of adoption: 1 April 1998

Latest amendment: 1 January 2026

Entry into force: 1 January 1999

²⁸ Act V of 2013 on the Civil Code (2013. évi V. törvény a Polgári Törvénykönyvről), 26 February 2013, http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1300177.TV. The Civil Code refers back to the requirement of equal treatment, thus invoking the Equal Treatment Act, which has an open-ended list of grounds in Article 8.

²⁹ Act I of 2012 on the Labour Code (2012. évi I. törvény a munka törvénykönyvéről), 6 January 2012, http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1200001.TV. The Labour Code refers back to the requirement of equal treatment, thus invoking the Equal Treatment Act, which has an open-ended list of grounds in Article 8.

³⁰ Act XXVI of 1998 on the rights of persons with disabilities and the guaranteeing of their equal opportunities (1998. évi XXVI. törvény a fogyatékos személyek jogairól és esélyegyenlőségük biztosításáról), 1 April 1998, http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=99800026.TV.

Web link:

http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=99800026.TV&celpara=#xcelparam

Grounds covered: Disability

Civil and administrative law

Material scope: Numerous fields including education, employment, cultural activities, accessibility of public services, transportation

Principal content: Setting out the most important principles in relation to the inherent personality rights of persons with disabilities; reasonable accommodation provisions (limited in scope)

Official title of the law: Act CXI of 2011 on the Commissioner for Fundamental Rights³¹

Name used in this report (*if different from above*): Ombudsman Act

Abbreviation: N/A

Date of adoption: 26 July 2011

Latest amendment: 6 January 2026

Entry into force: 1 January 2017

Web link:

http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1100111.TV&celpara=#xcelparam

Grounds covered: All

Constitutional law, administrative law

Material scope: Acts of public entities and public service providers in all fields

Principal content: Creation of an organ with a role in combating discrimination; Hungary's designated equality body; independent mechanism under the UN CRPD

³¹ Act CXI of 2011 on the on the Commissioner for Fundamental Rights (*2011. évi CXI. törvény az alapvető jogok biztosáról*), 26 July 2011, <https://net.jogtar.hu/jogszabaly?docid=a1100111.tv>. The Ombudsman has the power and obligation to examine any complaint regarding any constitutional violation (Article XV of Hungary's constitution, the Fundamental Law contains a non-discrimination clause with an open-ended list).

1 GENERAL LEGAL FRAMEWORK

Constitutional provisions on protection against discrimination and the promotion of equality

The constitution of Hungary includes the following articles dealing with non-discrimination.

Article XV of the Fundamental Law reads as follows:

- '(1) Every person shall be equal before the law. Every human being shall have legal capacity.
- (2) Hungary shall ensure fundamental rights to everyone without any discrimination on the grounds of race, colour, gender, disability, language, religion, political or other opinion, national or social origin, property, birth or on any other ground.
- (3) Women and men shall have equal rights.
- (4) Hungary shall take special measures to promote the realisation of equal opportunities and social integration.
- (5) Hungary shall take special measures to protect families, children, women, the elderly and persons with disabilities.'

Thus, Article XV is a general clause, containing an open-ended list of protected grounds. Not all the grounds listed in the directives are explicitly included (age and sexual orientation are missing from the list), but when Constitutional Court jurisprudence is taken into account it can be concluded that all the grounds covered by the directives are included at least implicitly.

In its jurisdiction on the non-discrimination clause in the Old Constitution (which was also open ended), the Constitutional Court consistently regarded sexual orientation as being one of the 'other grounds'.³² In its Decision No. 13/2013. (VI. 17.) AB,³³ the Constitutional Court concluded that the old jurisprudence of the Constitutional Court will apply to the Fundamental Law if the provisions of the Old Constitution and the Fundamental Law are identical or similar from a substantive point of view, and there is nothing in the constitutional context or the particularities of the individual case that would exclude the possibility of such an application. Reading this in conjunction with the old jurisprudence, it seems unambiguous – and, so far, it has not been challenged – that Article XV of the Fundamental Law does include sexual orientation (and the same is true for age).³⁴

This provision applies to all areas covered by the directives. Its material scope is broader than those of the directives in the sense that it is not specified. The provision states that 'Hungary shall ensure fundamental rights to every person without any discrimination'. This is the case in all the areas affected by the directives, and beyond. However, the provision only stipulates the requirement of non-discrimination in relation to the guaranteeing of rights that are regarded as fundamental.

In its jurisprudence,³⁵ the Constitutional Court extended the principle of non-discrimination beyond fundamental rights to apply to the entire legal system, but the test for when

³² In its Decision No. 20/1999 (VI. 25.) on abolishing a discriminatory provision of the Criminal Code (rendering certain forms of sexual contact between same-sex siblings punishable, while not rendering them punishable if the siblings are of different sex), the Constitutional Court claimed the following: 'The sole basis of distinction in the case examined is sexual orientation: homosexual siblings are punishable under the law, whereas heterosexual siblings are not. In terms of Article 70/A of the Constitution, this is discrimination based on "other ground"'. Decision available at: <http://public.mkab.hu/dev/dontesek.nsf/0/1264902F1E6415B7C1257ADA00527C70?OpenDocument>.

³³ <https://net.jogtar.hu/jogszabaly?docid=A13H0013.AB&txtreferer=A1100162.TV>.

³⁴ For a decision that examined – in the context of pension schemes – whether differentiation based on age constituted discrimination (which presupposes that age is accepted as one of the protected grounds), see: Constitutional Court Decision No. 871/B/2000. AB, 18 January 2005.

³⁵ Constitutional Court Decision No. 14/2014 (V. 13.) AB, 13 May 2014, <https://njt.hu/jogszabaly/2014-14-30-75>.

differential treatment is permissible is different for, on the one hand, fundamental rights (such as the right to education, freedom of expression or assembly) and, on the other hand, other rights and interests (such as access to goods and services, access to a certain job, the right to social benefits). The right to non-discrimination is difficult to approach/place in this context, because the question arises as to whether there is differentiation in relation to the exercising of a certain right and, if there is, whether that differentiation is permissible, in which case there is no discrimination, as the differentiation does not constitute discrimination. Therefore, the question regarding what the test is for permitting differentiation in relation to a certain right cannot be interpreted in the context of non-discrimination (see section 2.4.b for more details).

For a long time, the provisions were regarded as not directly applicable. However, there have been some judicial decisions, including one on the state administration's responsibility for the widespread systemic segregation of Roma children,³⁶ in which the courts have applied constitutional provisions directly to decide conflicts between competing rights.

It is debated whether these provisions can be enforced against private actors (or only against the state).³⁷

³⁶ Budapest Regional Court, Judgment No. 40.P.23.675/2015/84, 18 April 2018, https://eakta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=F%C5%91v%C3%A1rosi%20T%C3%B6rv%C3%A9nysz%C3%A9k&ugyszam=P.23675/2015/84&azonosito=AHK4T_23412681.

³⁷ See for instance: Vincze, A. (2004), 'Az Alkotmány rendelkezéseinek érvényre juttatása a polgári jogviszonyokban' (The enforcement of constitutional provisions in civil law relationships), *Polgári Jogi Kodifikáció*, vol. VI, no. 3, HVG-ORAC, Budapest, pp. 3–13, available at: <https://ptk2013.hu/wp-content/uploads/2012/11/2004-3kodi.pdf>.

2 THE DEFINITION OF DISCRIMINATION

2.1 Definition of the grounds of unlawful discrimination within the directives

a) Racial or ethnic origin

This term is not defined in national discrimination legislation, and even the terminology used in the ETA and in other relevant legal norms is very diverse. It is not possible, therefore, to provide information separately on racial origin and ethnic origin as interpreted in Hungarian law.

'Race' (*faj*) and 'colour' (*szín*) are mentioned by the Fundamental Law, whereas the ETA uses 'colour of skin' (*bőrszín*), 'racial affiliation' (*faji hovatartozás*), 'belonging to a national minority' (*nemzetiséghez való tartozás*)³⁸ and 'nationality' (*nemzetiség*) (not in the sense of citizenship).

There is a statutory definition of only one of these terms: nationality (*nemzetiség*, not in the sense of citizenship), which is set out in Article 1 of Act CLXXIX of 2011 on the rights of nationalities³⁹ (Act on Nationalities):

'Under this law, a nationality is any ethnic group with a history of at least one century of living in the territory of Hungary, which represents a numerical minority among the citizens of the state, and is distinguished from the rest of the population by their own language, culture and traditions, and at the same time demonstrates a sense of belonging together, which is aimed at the preservation of all these, and the expression and protection of the interests of their communities, which have been formed in the course of history.'⁴⁰

The other relevant terms have no legal definitions.

This uncertainty in relation to terms is also reflected in case law. In 2012, for instance, in two identical cases (launched because Roma guests were not allowed to enter the respective bars), the Equal Treatment Authority established the occurrence of discrimination on two different bases: in one on the basis of the colour of skin,⁴¹ in the other on the basis of belonging to the Roma national minority.⁴² From 2013 on, the Equal Treatment Authority and its successor, the Ombudsman, have consistently used the term 'belonging to a national minority' in Roma discrimination cases.

The main reason for the lack of definitions is that, due to the open-ended nature of the list of protected grounds, there is no pressing need to provide definitions or interpret the differences in these terms.

Article 8 of the ETA lists the following protected grounds: a) sex and corresponding identity, b) racial affiliation, c) colour of skin, d) nationality (not in the sense of citizenship), e) belonging to a national minority, f) mother tongue, g) disability, h) health condition, i) religion or belief, j) political or other opinion, k) family status, l) maternity (pregnancy) or paternity, m) sexual orientation, n) --, o) age, p) social origin, q) financial status, r) part-time nature of employment legal relationship or other legal relationship relating to

³⁸ The literal translation of the expression '*nemzetiséghez való tartozás*' is 'belonging to a nationality' but in practice it is used to cover those people who belong to a national minority within the meaning of Article 1 of Act CLXXIX of 2011 on the rights of nationalities. The expression '*nemzetiséghez való tartozás*' is therefore translated in the text as 'belonging to a national minority'.

³⁹ Act CLXXIX of 2011 on the rights of nationalities (2011. évi CLXXIX. törvény a nemzetiségek jogairól), 19 December 2011, http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?dbnum=1&docid=A1100179.TV.

⁴⁰ Under Annex 1, the Act on Nationalities itself recognises 13 nationalities: Armenian, Bulgarian, Croatian, German, Greek, Polish, Roma, Romanian, Ruthenian, Serbian, Slovakian, Slovenian, Ukrainian.

⁴¹ Equal Treatment Authority, [EBH/50/2012](#), 5 January 2012.

⁴² Equal Treatment Authority [EBH/117/2012](#), 22 May 2012.

employment, or fixed period thereof, s) belonging to an interest representation organisation, t) any other situation, attribute or condition of a person or group.

Thus, the fact that the term national minority is statutorily defined does not mean that persons affiliated with the 13 recognised national minorities are in a more advantageous position than others from the point of view of the application of the ETA: if a person not belonging to any of the acknowledged nationalities is discriminated against, the protection will be based on Article 8(b) (racial affiliation) or (c) (colour of skin), or maybe even (t) (other characteristic) of the ETA. This blurs the boundaries between the different concepts, and no effort is made to come up with clear distinctions on behalf of either the bodies applying non-discrimination legislation, or the parties involved in such legal disputes.

For the same reason, the issue addressed by the CJEU in its ruling in the 'Danish ghetto law case'⁴³ is highly unlikely to come up in the Hungarian context: if 'immigrants from non-Western countries and their descendants' were not characterised by a domestic court as being protected on the grounds of racial affiliation, skin colour, nationality (not in the sense of citizenship), or belonging to a national minority, they would still be regarded as protected under the heading 'other characteristic', as they fit the criteria based on which this qualification is possible.

b) Religion or belief

Neither of the two terms is defined in national discrimination legislation.

Religion is not defined by Act CCVI of 2011 on the right to freedom of conscience and religion and the legal status of churches, denominations and religious communities⁴⁴ (Act on Churches), but religious activities are (under Article 7/A). In terms of this definition, religious activities are activities linked to a worldview that is directed towards the transcendental; has a system of faith-based principles, the teachings of which are directed towards existence as a whole; and embraces the entire human personality by requiring a specific code of conduct.

It needs to be added that this definition is provided in the context of church recognition, but not in the context of the exercise of the freedom of religion. However, this does not mean that the definition of religion or belief is expected to be different or broader in the anti-discrimination legal framework. In this context, it must be emphasised again that, as a result of the open-ended list of protected grounds in the ETA, anything that may not be regarded as coming under the term religion, can still be dealt with as 'other characteristic'. Definitions are therefore not as important an issue in Hungary as they are in legal systems with a closed list of protected grounds. The issue of what is to be regarded as religion under the ETA has not come up in the jurisprudence.

Article 1 of the Act on Churches provides protection regarding both the *forum internum* and the *forum externum*, when it prescribes that no one shall be subjected to any disadvantage because of having, accepting, manifesting, confessing, changing or practising his or her religious belief or conviction.

Belief is not defined in either legislation or jurisprudence.

⁴³ Judgment of 18 December 2025, *Slagelse Almennyttige Boligselskab, Afdeling Schackenborgvænge*, C-417/23, ECLI:EU:C:2025:1017.

⁴⁴ Act CCVI of 2011 on the right to freedom of conscience and religion and the legal status of churches, denominations and religious communities (2011. évi CCVI. törvény a lelkiismereti és vallásszabadság jogáról, valamint az egyházak, vallásfelekezetek és vallási közösségek jogállásáról), 31 December 2011, http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1100206.TV.

c) Disability

This term is not defined in national discrimination legislation, but definitions of the term can be found elsewhere under national law. For instance, one definition of disability is to be found in Article 4 of Act XXVI of 1998 on the rights of persons with disabilities and the guaranteeing of their equal opportunities (RPD Act), which was amended in 2013 to comply with the UN Convention on the Rights of Persons with Disabilities (CRPD): 'persons with disabilities are those who have irreversible or long-term sensory, communication-related, physical, intellectual, or psychosocial impairments or the accumulation thereof, which in interaction with significant environmental, societal or other barriers restrict or hinder their full and effective participation in society on an equal basis with others.' Laws on certain social benefits contain differing definitions of what constitutes disability for their purposes. Due to the fact that the list of protected grounds in the ETA is open ended (covering 'any other situation, attribute or condition') no problems of definition have so far arisen in Hungarian jurisprudence, as any feature not expressly falling under the grounds protected by the directives or the ETA can qualify as falling under the prohibition of discrimination based on the 'any other characteristic' clause.

A problem may arise in relation to reasonable accommodation, which is governed by the RPD Act and the Labour Code, but in the absence of domestic jurisprudence it is difficult to assess whether this might be a case. Persons not falling under the RPD Act's definition may therefore be left without protection against failure to provide reasonable accommodation, although the RPD Act's definition seems to be in line with the CJEU's definition of 'disability' developed in *HK Danmark*⁴⁵ (in fact, it is broader than the CJEU's definition, in that it is not confined to hindrances to professional life, but embraces all aspects of a person's participation in society).

d) Age

This term is not defined in national discrimination legislation or in any other legal norm. There are norms which define certain age-based categories (e.g. under Article 294 of the Labour Code, a 'young employee' is an employee who is below 18 years of age), but belonging to these categories is not a precondition for protection against discrimination. Therefore, both older and younger persons are protected against age-based discrimination without any further need for categorisation. The only question to be examined in any given case is whether a person would be in a disadvantageous situation based on their age compared to another person who belongs to an age cohort that can be distinctively differentiated from the one to which the complainant belongs.

e) Sexual orientation

This term is not defined in national discrimination legislation or in any other legal norm, nor is the author aware of any case law where Hungarian courts attempted to provide a definition for the term.

2.2 Multiple and intersectional discrimination

In Hungary, multiple discrimination is not *expressis verbis* prohibited by law, but it is possible to sanction multiple discrimination.

In Hungary, multiple discrimination may be taken into account when deciding on discrimination cases (e.g. when imposing a sanction – see the example below).

⁴⁵ Court of Justice of the European Union, Judgment of 11 April 2013, *Ring and Skouboe Werge*, joined cases C-335/11 and C-337/11, ECLI:EU:C:2013:222.

In Hungary, intersectional discrimination is not *expressis verbis* prohibited by law, but it is possible to sanction intersectional discrimination.

In Hungary, intersectional discrimination is taken into account when deciding on discrimination cases (see the example below).

In Hungary, the following case law deals with multiple or intersectional discrimination.

In a case of three female complainants of Roma origin (claiming that the mayor of the neighbouring municipality who had employed them as public workers had regularly harassed them), the Equal Treatment Authority concluded that the harassment they had suffered was connected to their gender, Roma origin and vulnerable social status and that the combination of these characteristic features had formed the basis of the mayor's behaviour towards them. According to the decision, when determining the sum of the fine imposed (HUF 300 000, or EUR 830), the Authority took into account – among other factors – that the violation was committed in a manner taking advantage of the multiply disadvantageous situation of the complainants.⁴⁶

In another case,⁴⁷ the Equal Treatment Authority dealt with intersectional discrimination in connection with an employer's '13th-month payment' policy that applied to workers on the sole basis of their actual presence in the workplace. The case concerned discrimination based on gender and family status ('motherhood') and although these characteristics fall outside the scope of this report, the case is worth mentioning from the perspective of intersectional discrimination. The Equal Treatment Authority concluded in its decision (which expressly referred to the intersectional nature of the discrimination) that women with children were deprived of the extra month's salary disproportionately more often than any other employee in a comparable situation (women without children, men with children, men without children), i.e. persons to which both characteristics (having children and being a woman) applied, had been discriminated against.⁴⁸

2.3 Assumed and associated discrimination

a) Discrimination by assumption

In Hungary, discrimination based on a perception or assumption of a person's characteristics is prohibited under national law.

Article 8 of the ETA expressly prohibits discrimination based on 'real or assumed' characteristics. It stipulates that

'direct discrimination shall be constituted by any action [including any conduct, omission, requirement, order or practice] as a result of which a person or group based on its *real or assumed* sex and corresponding identity, racial affiliation, colour of skin, nationality (not in the sense of citizenship), belonging to a national minority, mother tongue, state of disability, health condition, religion or belief, political or other opinion, family status, maternity (pregnancy) or paternity, sexual orientation, age, social origin, financial status, part-time nature of employment legal relationship or other legal relationship relating to employment, or fixed period thereof, belonging to

⁴⁶ Equal Treatment Authority, EBH/467/2016, 30 December 2016. Description of the case based on Equal Treatment Authority (2018), *EBH Booklet 5 – Multiple discrimination in the Equal Treatment Authority's case law*, Budapest, Equal Treatment Authority, pp. 39-40.

⁴⁷ Equal Treatment Authority, [EBH/130/2017](#), 7 August 2017.

⁴⁸ Equal Treatment Authority (2018), *A többszörös diszkrimináció megjelenése az Egyenlő Bánásmód Hatóság joggyakorlatában* (Multiple discrimination in the practice of the Equal Treatment Authority), p. 12. Most of the materials that were available on the Equal Treatment Authority's website are not available any more due to the transfer of the Authority's mandate to the Ombudsman, and the Ombudsman's decision to make the Authority's website unavailable. Where there is no internet link next to a decision or publication of the Authority, it means that those materials have been made unavailable.

an interest representation organisation, other situation, attribute or condition (hereinafter collectively referred to as characteristics) is treated less favourably than another person or group is, has been or would be treated in a comparable situation.’ (emphasis added)

This prohibition is reinforced by Article 19(1)(b) of the ETA, which provides for the reversal of the burden of proof on the basis of both the victim’s real protected characteristic or that ‘assumed by the perpetrator’.

The equality body and the courts apply the standard methods of gathering and assessing evidence when determining the perpetrators’ assumptions. An example is provided by a case decided by the Equal Treatment Authority, in which the employer harassed the complainant and a colleague of his due to their assumed homosexual orientation. In the case, the complainant proved the existence of the assumption with witnesses who could testify to the employer’s statements at different meetings, and a recording of one staff meeting where the complainant asked the employer why the employer thought that they were gay and whether this was the reason for the increasingly hostile working environment.⁴⁹

b) Discrimination by association

In Hungary, discrimination based on association with persons with particular characteristics is not expressly prohibited under national law.

However, the national law as applied by the courts and authorities is in line with the judgment in *Coleman v. Attridge Law and Steve Law*, C-303/06, *CHEZ Razpredelenie Bulgaria AD v Komisia za zashtita ot diskriminatsia*, C-83/14, and *Bervidi*, C-38/24 handed down by the European Court of Justice.

For some time, Article 8(t) (other situation, attribute or condition) was applied to provide protection for those discriminated against on the basis of association with members of a particular group. Later on, the Equal Treatment Advisory Board formulated Guideline No. 288/2/2010 (IV.9.) TT, which recommends that in such cases the ground for discrimination should not be ‘other characteristic’, but the ground with which the victim is associated, and the Authority should expressly refer to the concept of discrimination by association.

The Authority took this recommendation into account. For instance, in Case No. EBH/23/2011,⁵⁰ the Authority relied on the notion of discrimination by association when the complainant’s labour contract was terminated because she had to take a leave of absence due to her two-year-old child’s illness. The Ombudsman as equality body follows this interpretation. In its decision No. EBF-AJBH-28/2022, it concluded that not only the wife of Roma origin, but also the non-Roma husband was discriminated against on the basis of ethnic origin when the landlord had terminated the lease once he had found out that the wife was of Roma ethnicity. The Ombudsman claimed that ‘the requirement of equal treatment can primarily be violated in relation to the complainant’s protected characteristic, but it can be qualified as discrimination by association if someone suffers a disadvantage not because of their own protected characteristic but due to the protected characteristic of a person who is in a direct (family or friendly) relationship with them, therefore, the husband could request protection on the basis of his wife’s protected characteristics.’⁵¹ In case no. EBF-AJBH-314/2023, the Ombudsman also concluded that discrimination by association had taken place when a complainant had had to carry his child in his wheelchair up the stairs of a non-accessible post office⁵² to be able to use the postal services.

⁴⁹ Equal Treatment Authority, EBH/985/2010, no date available.

⁵⁰ Equal Treatment Authority, EBH/23/2011, no date available.

⁵¹ Ombudsman, [EBF-AJBH-28/2022](#), December 2022.

⁵² Ombudsman, [EBF-AJBH-314/2023](#), October 2023.

The courts' jurisprudence is less consistent in this regard. For instance, in a case whereby six mothers and their children (aged between 29 and 42 years) living with severe accumulated disabilities (including intellectual disabilities) and being under guardianship sued the Ministry of Human Capacities (later legally succeeded by the Ministry of the Interior) and the Chief Directorate for Social Affairs and Child Protection for their failure to provide supported housing in or in the proximity of Budapest, preventing the claimants from access to such housing, the Budapest Regional Court concluded in 2021 that the mothers were subjected to discrimination by association on the ground of their children's disability, the Budapest Appeals Court put aside the concept of discrimination by association, and took the stance in its April 2022 judgment that the ground of discrimination regarding the mothers in this case was not disability, but 'other characteristic, feature, situation' (for a more detailed description of the case, see Section 6.5).

The equality body and the courts apply the standard methods of gathering and assessing evidence when determining whether the discriminatory treatment was based on the victim's association with a third person (or group).

2.4 Direct discrimination (Article 2(2)(a))

a) Prohibition and definition of direct discrimination

In Hungary, direct discrimination is prohibited under national law. It is defined.

As mentioned above, the definition of direct discrimination is set out in Article 8 of the ETA:

'direct discrimination shall be constituted by any action [including any conduct, omission, requirement, order or practice] as a result of which a person or group based on its real or assumed sex and corresponding identity, racial affiliation, colour of skin, nationality (not in the sense of citizenship), belonging to a national minority, mother tongue, state of disability, health condition, religion or belief, political or other opinion, family status, maternity (pregnancy) or paternity, sexual orientation, age, social origin, financial status, part-time nature of employment legal relationship or other legal relationship relating to employment, or fixed period thereof, belonging to an interest representation organisation, other situation, attribute or condition (hereinafter collectively referred to as characteristics) is treated less favourably than another person or group is, has been or would be treated in a comparable situation.'

Both the equality body and the courts regularly apply the concept of direct discrimination, and the application of this concept has become more or less unproblematic since the ETA came into force over 20 years ago.

An example of discrimination based on racial or ethnic origin in the field of access to services is a case,⁵³ where the Ombudsman concluded that direct discrimination had taken place when a bar's security guard had not allowed a Roma person to enter on the basis of the false claim that he had behaved aggressively the week before (in the procedure both the owner and the security guard of the bar admitted that this had not been the case and claimed that they had mistaken the complainant for somebody else).⁵⁴ An example from 2025 of direct discrimination based on disability in relation to access to services is the case of a swimming school, which rejected an application by a child diagnosed with mild autism to participate in a group swimming lesson. The Ombudsman concluded that the swimming pool, by rejecting the application without any individual assessment (such as a trial lesson, as suggested by the parents), directly discriminated against the child.⁵⁵

⁵³ Ombudsman, [EBF-AJBH-81/2023](#), July 2023.

⁵⁴ Equal Treatment Authority, Decision No. EBH/70/2018, 9 January 2018.

⁵⁵ Ombudsman, [EBF-AJBH-185/2025](#), August 2025.

b) Justification for direct discrimination

Article 7(2) and (3) of the ETA contains the general exempting clause for the Hungarian system. Whether a general objective justification (for both direct and indirect discrimination) exists or not depends on the ground concerned, whereas the conditions for such an exemption depend on the type of right affected by the differentiating behaviour. The provision reads as follows:

‘(2) Unless this law stipulates otherwise, an action, conduct, omission, requirement, order or practice (hereinafter: action) shall not be deemed to violate the requirement of equal treatment if

- a) it restricts the aggrieved party’s fundamental right for the sake of the enforcement of another fundamental right, provided that the restriction is absolutely necessary, suitable for achieving the aim and proportionate with the aim, or
- b) in cases not falling under the scope of a), it is found by objective consideration to have a reasonable ground directly related to the relevant legal relation

(3) Paragraph (2) shall not be applied concerning differentiation based on b)-e) of Article 8 [racial affiliation, colour of skin, nationality (not in the sense of citizenship), belonging to a national minority].’

The explanation for the differentiation set out in Paragraph (3) is that when the Hungarian legislature realised that Directive 2000/43 did not allow for a general objective justification in the case of direct discrimination based on racial or ethnic origin, it removed the relevant grounds from the scope of Article 7(2) of the ETA.

However, the same has not been done with regard to the grounds listed in Directive 2000/78. By not doing so, the legislature maintained the situation whereby a general and objective justification exists in relation to direct discrimination based on age, disability, religion and sexual orientation.

The specific exempting clauses related to employment coincide to a great extent with the genuine and determining occupational requirement (GOR) and religious ethos provisions. Therefore, it may be argued that in practice the general objective justification clause may not be applied in relation to employment due to the *lex specialis derogat legi generali* principle, which prevents the general exempting clause from being applied in employment-related cases, and thus the requirement set by the Directive is in fact met. However, it would have seemed to be a safer and more desirable solution to remove these grounds completely from the scope of Article 7(2) of the ETA.

The differentiation between a) and b) in Paragraph (2) reflects the practice of the Hungarian Constitutional Court. After extending the constitutional ban on discrimination to the whole legal system (and not only fundamental rights) in its Decision No. 61/1992 (XI. 20),⁵⁶ it became necessary for the court to establish different tests for discrimination concerning fundamental human rights on the one hand and other rights on the other. In the first case, the court applies the test of necessity and proportionality, while in the latter a test defined in Constitutional Court Decision No. 35/1994⁵⁷ is applied: ‘the unconstitutionality of a measure unfavourably discriminating between persons and not concerning fundamental rights may be established if the infringement is related to one of the fundamental rights [...] and the discrimination or restriction does not have an objectively reasonable ground, i.e. it is arbitrary.’

This is why the Hungarian legislature made a distinction on the basis of whether a certain differentiation concerns a fundamental right (such as the right to education) or a right that

⁵⁶ Constitutional Court, Decision 61/1992 (XI. 20.) AB, 20 November 1992, <http://public.mkab.hu/dev/dontesek.nsf/0/7F28814984A06851C1257ADA00526FCE?OpenDocument>.

⁵⁷ Constitutional Court, Decision 35/1994. (VI. 24.) AB, 24 June 1994, <http://public.mkab.hu/dev/dontesek.nsf/0/5668A96A2701F0DBC1257ADA005276E5?OpenDocument>.

may not be regarded as such (e.g. access to services). In the former case, the test is stricter (there has to be a legitimate aim, notably the enforcement of another fundamental right, and the test of necessity, suitability and proportionality is applied), while in the latter, the criterion is objective reasonability.

The relationship between this general justification and the Hungarian versions of the special exceptions stipulated by the directives is based on the *lex specialis derogat legi generali* principle, i.e. the specific justification rules are to be regarded as specific legal provisions, which, in the respective fields, prevail over the general (and more lenient) exemption set out in Article 7(2).

The ministerial comments attached to Act CIV of 2006 on the amendment of the ETA⁵⁸ expressly state this: 'The law (...) states that a behaviour shall not be regarded as discriminatory if it meets the necessity/proportionality test in relation to fundamental rights and the rationality test in all other areas. (...) As [the ETA] sets forth special exempting rules in relation to employment, public education and access to goods and services, Paragraph (2) of Article 7 may only be applied if the ETA does not prescribe (stricter or less strict) exempting rules.'

2.5 Indirect discrimination (Article 2(2)(b))

a) Prohibition and definition of indirect discrimination

In Hungary, indirect discrimination is prohibited under national law. It is defined, but it is not in full compliance with the directives, owing to a more permissive exemption clause than the *acquis* allows (see below, under point (b)).

Article 9 of the ETA states: 'A provision not deemed as direct discrimination and ostensibly meeting the requirement of equal treatment is deemed as indirect discrimination if it puts individual persons or groups with characteristics specified in Article 8 in a situation that is significantly disproportionately disadvantageous compared to the situation in which a person or group in a comparable position is, has been or would be.'

Both the equality body and the courts regularly apply the concept of indirect discrimination. In the absence of relevant 2024 jurisprudence, one example that can be quoted is an *actio popularis* case won by the European Roma Rights Centre (ERRC) regarding Miskolc town hospital's policy of charging for mandatory maternity clothing for friends and family members of pregnant mothers (to wear when present during the birth). In its judgment of 24 January 2019, the Debrecen Appeals Court upheld the first instance decision and concluded that the apparently neutral measure had impacted the Roma women disproportionately since their financial situation was on average much worse than that of the non-Roma women giving birth in the hospital, and therefore they were disproportionately represented among those who could not afford to have their companions present during the birth.⁵⁹ The Kúria also confirmed this interpretation.⁶⁰

The prohibition of indirect discrimination has been used to address structural discrimination in a number of cases. An example is offered by a lawsuit initiated by the Chance for Children Foundation (CFCF) and the ERRC against the Ministry of Human Capacities (EMMI), the Klebelsberg Centre for Management of Educational Institutions (KLIK, i.e. the state body

⁵⁸ Act CIV of 2006 on the amendment of the ETA (2006. évi CIV. törvény az egyenlő bánásmódról és az esélyegyenlőség előmozdításáról szóló 2003. évi CXXV. törvény módosításáról), 5 December 2006, <https://mkoqy.jogtar.hu/?page=show&docid=a0600104.TV>.

⁵⁹ Debrecen Appeals Court, Judgment No. Pf.I.20.749/2018/8, 24 January 2019, available at: http://www.errc.org/uploads/upload_en/file/5106_file1_anonymised-version-of-the-judgment-in-hungarian-2018.pdf.

⁶⁰ Kúria, Judgment No. Pfv.IV.20.677/2019/8, 20 May 2020, reported at: ERRC (2020) 'Romani mothers win hospital discrimination case in Hungarian Supreme Court', 31 August 2020, <http://www.errc.org/press-releases/romani-mothers-win-hospital-discrimination-case-in-hungarian-supreme-court>.

acting as the sole maintainer of all primary and secondary schools that were previously managed by municipalities) and the Heves County Pedagogical Service regarding the functioning of expert panels deciding on the diagnosis of children with minor intellectual disabilities and their placement in schools. The basis of the claim was that the expert panels' practice of using diagnostic methods that were not culture-neutral had resulted in a significant overrepresentation of Roma pupils in 'auxiliary schools' for children with intellectual disabilities.

In its March 2016 decision, the Eger Regional Court concluded⁶¹ that the practice of the Pedagogical Service (which is responsible for the operation of expert panels) had amounted to indirect discrimination against Roma pupils in Heves County since 2004. KLIK and EMMI were also found to be in violation of the requirement of equal treatment by failing to take the legally prescribed measures to monitor the activities of the Pedagogical Service, therefore contributing to the continuation of the indirect discrimination. The court obliged the respondents to put an end to the violation. With regard to the Pedagogical Service, the court concluded that the claimants had provided evidence from which it could be presumed that, by failing to use culture-neutral testing methods, the expert panels misdiagnosed Roma children in a highly disproportionate number of cases, thus preventing them from the possibility of receiving education in line with their intellectual abilities. With regard to EMMI and KLIK, the court drew attention to the fact that their failure to monitor the service was particularly disturbing, since they were aware of severe problems with the practice of the expert panels based on information from their own background institutions.

In September 2020, the Debrecen Appeals Court upheld the judgment.⁶² In addition, the appeals court concluded that the respondents had failed to offer evidence (including statistics based on perception regarding the ethnic affiliation of children in special education) proving that the discriminatory practice had been terminated after the delivery of the first-instance judgment.

b) Justification test for indirect discrimination

The ETA makes no distinction between the justification of direct and indirect discrimination. Therefore, the same general and specific exempting clauses pertain to both types.

As pointed out above, Article 7(2) of the ETA states:

'Unless this law stipulates otherwise, an action, conduct, omission, requirement, order or practice (hereinafter: action) shall not be deemed to violate the requirement of equal treatment if a) it restricts the aggrieved party's fundamental right for the sake of the enforcement of another fundamental right, provided that the restriction is absolutely necessary, suitable for achieving the aim and proportionate with the aim, or b) in cases not falling under the scope of a), it is found by objective consideration to have a reasonable ground directly related to the relevant legal relation.'

As explained above, this means that if a constitutional right of the complainant is restricted through a distinction based on a protected ground, it can only be justified if it is done for the sake of the enforcement of another fundamental right, whereas if the distinction concerns a right that is not deemed to be fundamental, the justification of objective reasonability may be applied. Objective justification may not be applied if the basis for the distinction is racial or ethnic origin.

⁶¹ Eger Regional Court, 12.P.20.166/2014/92, 10 March 2016, https://eakta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=Egri%20T%C3%B6rv%C3%A9nysz%C3%A9k&ugyszam=P.20166/2014/92&azonosito=AHK4T_26167413.

⁶² Debrecen Appeals Court, Pf.I.20.214/2020/10, 24 September 2020, https://eakta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=Debreceni%20%C3%8Dt%C3%A9l%C5%91t%C3%A1bla&ugyszam=Pf.20214/2020/10&azonosito=AHK4T_26270456.

With regard to the type of exemption covered by a), it can be said that it is compatible with the directives, as the legitimate aim requirement (the enforcement of another fundamental right) as well as the criteria of 'appropriateness' and 'necessity' are in place.

With regard to the types of exemption covered by b), it can be said that the 'objective reasonability' of the ground for differential treatment is obviously a test that is less strict than the one used by the directives. This terminology may be interpreted as corresponding to the requirement of a 'legitimate aim' (an aim that is found by objective consideration to have a reasonable ground can definitely be regarded as legitimate). However, the criteria of 'appropriateness' and 'necessity' are missing from the Hungarian legislation.

2.5.1 Statistical evidence

a) Legal framework

In Hungary, there is legislation regulating the collection of personal data.

According to Article 3 of Act CXII of 2011 on the right to informational self-determination and the freedom of information⁶³ (Data Protection Act), 'personal data' means any data relating to a 'data subject', where a data subject is a natural person identified or identifiable on the basis of any information. Under Article 4, in the course of data processing, such data will be considered to remain personal for as long as their relation to the data subject can be restored.

'Sensitive data' means all data included in the special subcategories of personal data, such as personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership. Also included are genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation.

Hence, data related to the ethnic or racial origin, disability, religion or belief or sexual orientation all belong to this special category. This is significant, since in terms of Article 5 of the Data Protection Act, the collection of such data is forbidden, unless

- processing is prescribed by law or decreed by a municipal council based on authorisation conferred by law with the aim of performing a task carried out in the public interest;
- processing is necessary and proportionate for protecting the vital interests of the data subject or of another person, or in order to prevent or avert an imminent danger posing a threat to the lives, physical integrity or property of persons;
- processing relates to data which are manifestly made public by the data subject and it is necessary and proportionate for the purpose of the data processing;
- processing is strictly necessary and proportionate for the implementation of an international agreement promulgated by an act of Parliament, or if prescribed by law in connection with the enforcement of fundamental rights afforded by the Fundamental Law, or for reasons of national security or national defence, or law enforcement purposes for the prevention, investigation or prosecution of criminal activities.

The practical result of these strict data protection rules is that public authorities have ceased collecting data concerning the sensitive grounds. This is obviously very detrimental from the point of view of monitoring discrimination in different areas of life. For instance, the latest official data concerning the numbers of Roma children in education date from 1993.

⁶³ Act CXII of 2011 on the right to informational self-determination and the freedom of information (2011. évi CXII. törvény az információk önrendelkezési jogáról és az információszabadságról), 26 July 2011, http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1100112.TV.

Under the General Data Protection Regulation,⁶⁴ the processing of personal data for scientific and statistical purposes is still allowed. However, this does not solve the problem, since due to the lack of systematic (or practically any) data collection by official authorities, there are no databases on which researchers and statistical experts may rely. As a result, they need to make a serious effort to collect the data directly from data subjects. This of course makes such research very expensive and time-consuming, so national surveys are very rare. This in turn poses a major obstacle when assessing countrywide trends and problems and designing positive measures.

Various actors (both researchers and legislators) are forced to circumvent the problems created by the lack of data in different ways. An example is provided by the educational measures aimed at assisting 'disadvantaged' and 'multiply disadvantaged' pupils (see Section 3.2.7, below, for more details). While it is common knowledge that Roma children are highly overrepresented among such pupils, the measures are formulated in terms of social characteristics and financial situation, and not as measures based on ethnicity. This approach may be explained by the intention to generate as little social tension as possible, while achieving the same goal, but it is also a result of the lack of reliable statistics on sensitive data (whereas data on unemployment and entitlement to social benefits are available).

However, there are certain instances where sensitive data are officially collected, the most obvious being the regular censuses. The most recent census took place in 2021. According to Act CI of 2018 on the 2021 Census,⁶⁵ answering questions concerning health status, disability, religion, mother tongue and ethnicity was voluntary (answering was mandatory in relation to all other questions).

According to the results of the census,⁶⁶ out of about 9 603 000 citizens:

- about 210 000 persons claimed affiliation with the Roma minority (a serious decrease compared to 309 000 respondents in the 2011 census); while 14 % of the respondents refused to answer;
- about 2 887 000 declared themselves Catholics, about 1 550 000 declared that they were not religious, and about 40 % of the respondents refused to answer;
- about 270 000 respondents stated that they lived with a disability and about 1 700 400 claimed that they suffered from a long-term illness.

Census data do not always provide reliable information about the number of certain minority groups. For instance, the census numbers are still significantly below the estimated number of Roma in Hungary.

There are also certain special measures – positive actions – which make it necessary to conduct some form of data collection.

Ethnic origin in education: The education system for minorities in Hungary is complex. According to Article 22(3) of the Act on Nationalities, based on the decision of their parents, children belonging to a nationality (not in the sense of citizenship, but in the sense of belonging to a recognised national minority) may receive (i) education in their mother tongue; (ii) bilingual education; (iii) Hungarian language education within the framework of which their nationality language is taught; or (iv) Roma nationality education. The existence of these forms of education naturally creates statistics on the number of children participating in these forms of education. In the 2025/2026 school year, 46 094 ethnic

⁶⁴ European Union, Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC.

⁶⁵ Act CI of 2018 on the 2021 Census (2018. évi CI. törvény a 2021. évi népszámlálásról), 18 December 2018, <https://net.jogtar.hu/jogszabaly?docid=a1800101.tv>.

⁶⁶ See: KSH (2022) 'Final census data: main population characteristics' <https://nepszamlalas2022.ksh.hu/eredmenyek/vegleges-adatok/kiadvany/>.

German, 1 296 ethnic Romanian and 3 483 ethnic Slovak pupils participated in primary minority education.⁶⁷ In the 2018/2019 school year (the last year for which this information is available), 20 406 Roma pupils participated in some form of primary minority education.⁶⁸

Expert panels also collect ethnic data when placing children with slight intellectual disabilities in special schools. The reason for this is that 'auxiliary schools' established for children with intellectual disabilities are often predominantly attended by Roma students, constituting a specific form of segregation. According to experts, part of the reason for this phenomenon is that the methods used for measuring the intellectual capacities of the children often do not take into account their specific socio-cultural background (see the March 2016 judgment of the Eger Regional Court described above). For the purpose of collecting data on this subject, the National Public Education Act⁶⁹ was amended in July 2014 to authorise expert panels (who decide on the placement of the children in special schools) to collect data concerning the ethnic affiliation of the child (based on the voluntary decision of the parent to answer this question) [Article 41(3)].⁷⁰

Disability for the purposes of benefits in employment: According to Article 23 of Act CXCI of 2011 on the benefits of persons with an altered ability to work and the amendment of certain laws,⁷¹ employers are obliged to pay a 'rehabilitation contribution' to the state budget if they have more than 25 employees and the proportion of persons with disabilities (persons who have officially been recognised as having an 'altered ability to work') within the workforce is below 5 %. This system requires that records be kept of employees' disabilities. Accordingly, Article 23(7) of Act CXCI of 2011 stipulates that employers employing persons with disabilities keep records containing, among other information, the personal identification data of the employees with disabilities, the fact of the employee's disability, and the degree to which the employee's ability to work has been altered and their health status deteriorated. The employer must also keep copies of the documents proving these facts. Records and copies must be preserved for five years after the end of the employment relationship.

Data on other grounds: Apart from the census, no data are collected in any context on religion. Data on sexual orientation are not collected at all. Age is not really seen as a sensitive subject in Hungary, so a lot of statistics can be found on age-related issues. This is the only ground on which data may be collected without any difficulty.

In Hungary, the use of statistical evidence may be admitted under national law in order to establish indirect discrimination.

Pursuant to Article 263(1) of the Code of Civil Procedure,⁷² the court 'may freely rely on the testimonies of the parties and any type of evidence that is useful for establishing the facts of the case'. Under Article 62(2) of Act CL of 2016 on the General Administrative Procedure⁷³ (GAP), 'in the proceedings of authorities all evidence may be relied on which

⁶⁷ Data provided by the Central Statistical Office at: https://www.ksh.hu/evkonyvek/2024/magyar-statisztikai-evkonyv-2024/pdf/statevk2024_3_6.pdf, p. 159.

⁶⁸ Ministry of Human Capacities (2020) *Statistical Yearbook of Public Education 2018/19*, https://2015-2019.kormany.hu/download/7/6e/d1000/K%C3%B6znevel%C3%A9si%20statisztikai%20%C3%A9vk%C3%B6nyv_2018-2019.pdf#!DocumentBrowse.

⁶⁹ Act CXCI of 2011 on national public education (2011. évi CXCI. törvény a nemzeti köznevelésről), 29 December 2011, http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1100190.TV.

⁷⁰ This amendment was made as part of an attempt to settle a desegregation case launched by the Chance for Children Foundation, in which the ministry responsible for education was one of the respondents.

⁷¹ Act CXCI of 2011 on the benefits of persons with an altered ability to work and the amendment of certain laws (2011. évi CXCI. törvény a megváltozott munkaképességű személyek ellátásairól és egyes törvények módosításáról), 29 December 2011, http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1100191.TV.

⁷² Act CXXX of 2016 on the Code of Civil Procedure (2016. évi CXXX. törvény - a polgári perrendtartásról), 1 January 2018, <https://net.jogtar.hu/jogszabaly?docid=a1600130.tv>.

⁷³ Act CL of 2016 on the General Administrative Procedure (2016. évi CL. Törvény az általános közgazgatási rendtartásról), 14 December 2016, <https://net.jogtar.hu/jogszabaly?docid=A1600150.TV>.

is useful for establishing the facts of the case.’ This means that both courts and public administrative authorities are free to accept all types of evidence.

b) Practice

In Hungary, statistical evidence is used in practice in order to establish indirect discrimination.

Generally, there seems to be *no* reluctance to use statistical evidence. A decision by the Supreme Court (predecessor of the Kúria) in the *Hajdúhadház* case⁷⁴ definitively settled the issue of whether statistical evidence may be used in segregation cases (see below). At the same time, the use of such evidence may not be regarded as widespread.

*The Hajdúhadház case:*⁷⁵ In an *actio popularis* case initiated by the CFCF, statistical evidence was used and accepted by the court to prove segregation. The CFCF launched a claim against the local council of Hajdúhadház and the two primary schools providing education in the city, claiming segregation and direct discrimination. Both schools have three buildings: one central and two supplementary buildings. In the case of both schools, the proportion of Roma pupils educated in the central building was relatively low (28 % and 22 %, respectively), whereas in the supplementary buildings the proportion of Roma pupils was very high (86 % and 96 % in one school, and 100 % in the other). In the case of both schools, the central building was much better equipped than the supplementary buildings, where no gymnasium, library, computers or specialised classrooms could be found.

The above percentages were established by a Roma education expert appointed by the court upon the claimant’s motion. The court gave detailed instructions as to how the expert should carry out the task. On the basis of the examination, the expert was commissioned to define the number of Roma pupils or the smallest number of those whose Roma origin could be established with certainty, as well as an estimate as to the remaining number of Roma pupils. The court expressly requested the expert to also take into consideration those pupils who may be assumed to be Roma by the majority population.

The court accepted the percentages provided by the expert and based the establishment of segregation mainly on this piece of evidence. The case went up to the Supreme Court, but none of the higher courts questioned the validity of the statistical data established by the expert.

*The Rimóc case:*⁷⁶ Another case of possible discrimination based on ethnicity concerned complaints about police action disproportionately targeting Roma. By conducting a statistical analysis of police fines, the Hungarian Helsinki Committee demonstrated that, while Roma people accounted for approximately 25 % of the village’s population, 35 of the 36 fines issued for missing bicycle accessories were imposed on persons who (based on their name, mother’s name, address) were likely to be of Roma origin. The organisation managed in this way to substantiate the claim that the police practice of imposing fines was ethnically disproportionate. The case ended with a friendly settlement in which the police agreed to ensure officers received non-discrimination training and provide data on fines for two more years.

⁷⁴ Supreme Court, Pfv.IV.20.936/2008/4, 19 November 2008, available at: <http://birosag.hu/ugyfelkapcsolati-portal/anonim-hatarozatok-tara> using the search function.

⁷⁵ Supreme Court, Pfv.IV.20.936/2008/4, 19 November 2008, available at: https://eakta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=K%C3%BAr%C3%BAria&ugyszam=Pfv.20936/2008/4&azonosito=AHK4T_3400213.

⁷⁶ Equal Treatment Authority, [EBH/190/2012](https://eakta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=K%C3%BAr%C3%BAria&ugyszam=Pfv.20936/2008/4&azonosito=AHK4T_3400213).

2.6 Harassment (Article 2(3))

a) Prohibition and definition of harassment

In Hungary, harassment is prohibited under national law. It is defined.

Under Article 10(1) of the ETA, 'harassment is a sexually charged or other conduct violating human dignity related to the concerned person's characteristic defined in Article 8, with the purpose or effect of creating an intimidating, hostile, degrading, humiliating or offensive environment'.

One example that can be quoted is Decision No. EBH/362/2018, in which the Equal Treatment Authority concluded that the action of security guards of a bar who went up to a gay couple and told them to stop kissing, eventually causing them to leave, was harassment based on the complainants' sexual orientation and was attributable to the bar (as a sanction, the Authority banned the bar from similar future violations).⁷⁷ A friendly settlement was reached in a 2024 case in which a seamstress with a visual impairment filed a complaint against her employer, claiming that the employer had failed to take action when her colleagues excluded her and made hostile remarks about her because of her disability. The case ended when the employer extended its apology, which the complainant accepted.⁷⁸

In Hungary, harassment explicitly constitutes a form of discrimination.

Article 7(1) of the ETA lists the behaviours violating the requirement of equal treatment. These are the following: direct and indirect discrimination; harassment; segregation; victimisation; instruction to engage in the above-named behaviours. Thus, harassment is expressly prohibited as a form of discrimination.

Since the definition of harassment in the ETA refers to 'the concerned person', and no reference is made to a group of persons, it was uncertain for some time whether harassment can be committed against a group within the meaning of the ETA. The issue was settled by the Kúria based on a reading of both Article IX(5) of the Fundamental Law (regulating the limits of freedom of expression) and Article 1 of the ETA. In a case concerning anti-Roma statements made publicly by a town mayor, the Kúria concluded that the ETA shall be understood as prohibiting harassment committed not only against individuals but also against groups and that any other interpretation would fly in the face of the principles set out in the ETA and the Fundamental Law. It also concluded that if such inciting statements could not be sanctioned, it would contradict the objectives defined by these laws.⁷⁹

Harassment is also prohibited and sanctionable under the Civil Code (as behaviour violating a person's dignity), although it is not expressly defined therein. According to Article 2:42(2) of the Civil Code, everyone shall respect human dignity and the inherent personality rights⁸⁰ stemming therefrom.

It follows therefore that the personal and material scope of the prohibition of harassment will depend on whether the behaviour that is alleged to violate the ban on harassment is adjudicated on the basis of the ETA or the Civil Code. As will be explained below (section 3.1), the ETA has limited personal scope when it comes to private entities: while all public entities fall under the law's scope in all fields of life, only four groups of private actors are covered by the law: (i) persons offering a public contract or making a public

⁷⁷ Equal Treatment Authority, Decision [No. EBH/362/2018](#), 5 November 2018.

⁷⁸ Ombudsman, [EBF-AJBH-2/2024](#), April 2024.

⁷⁹ Kúria, Kfv.III.37.848/2014/6, 29 October 2014, available at: http://www.helsinki.hu/wp-content/uploads/kiskunlachaza_ciganyozo-polgarmester_kuria.pdf.

⁸⁰ 'Inherent personality rights' are rights that are inalienably attached to the human personality.

offer; (ii) persons providing public services or goods; (iii) entrepreneurs, companies and other private legal entities availing themselves of state support; and (iv) employers (in the broad sense). In contrast, everybody is bound by the Civil Code's provisions protecting inherent personality rights in all areas of life. However, when it comes to liability for breaches of such rights (including cases of harassment), there is a limitation on the liability for damages, as described in the following subsection.

b) Scope of liability for harassment

In Hungary, in cases where harassment is perpetrated by an employee, the employer and the employee are liable under certain conditions.

Co-workers do not fall under the personal scope of the ETA, so their liability will not be established under the ETA's provision on harassment. Liability on the basis of the ETA falls on the employer if the employer fails to react to a complaint of harassment by an employee. However, employees can also be held liable under Article 2:42 of the Civil Code, which contains a general ban on the violation of inherent personality rights.

This liability is restricted to the non-pecuniary sanctions provided for by the Civil Code (e.g. an apology), since, under Article 6:540 of the Civil Code, employers and not workers can be held liable for damage caused by employees. Damages are to be sought from the employer, even if the employer played no role in the violation. This is preferential to the victim, who does not need to consider whether or not the employee acted upon an instruction or his or her own initiative.

While, in theory, the employer may reclaim part of the damages paid to the complainant from the employee, this rarely happens in practice. However, employees who harass others may face other legal consequences within the framework of labour law: according to the Labour Code, they can be held liable at their workplace in disciplinary proceedings, provided that the collective agreement or the labour contract stipulates this possibility (Article 56) or can be dismissed (Article 78).

An employer or a provider of education, social protection (including healthcare), social advantages, goods or services may be held liable for third-party harassment, i.e. for failing to address harassment between staff/persons under their charge and third parties, depending on a number of aspects of the case. The rule is that parties who fall under the scope of the ETA for any reason will be liable for harassment committed by parties who do not if they fail to take the necessary measures to put an end to the harassment, provided that they are in the position to do so.

An example is offered by a 2014 case,⁸¹ where the complainant was employed by the respondent school as a part-time teacher of Hungarian language and literature. As a result of his voice, which was of a higher-than-usual pitch, he became a target of constant mockery by his students, some of whom regularly called him a 'fag'. After trying, in vain, to discuss the matter with the students, he notified the headteacher of the class and the headmaster of the problem. No steps were taken, however, and, moreover, the students received good 'attitude grades' at the end of the school year. Finally, the complainant's contract was not extended at the end of the year. He claimed that he was discriminated against by the school on the basis of his – assumed – sexual orientation. The Equal Treatment Authority concluded that the complainant had been subjected to both direct discrimination (owing to his dismissal) and harassment (owing to the employer's failure to address his harassment by the students), ordered the respondent not to commit any such violations in the future and ordered that its decision be published on the Authority's website. The Authority decided not to impose a fine on the respondent due to the fact that,

⁸¹ Equal Treatment Authority, [Decision No. EBH/165/2013](#), no date available.

during the proceedings, the school sought a friendly settlement involving an offer to re-employ the complainant, but he refused to settle.

In this case, it was possible to hold the school liable as an employer (i.e. a private party falling under the personal scope of the ETA) and because it had the authority to take action against the students perpetrating the harassment on the basis of the legal relationship between a school and its students, so it could be concluded that there was an omission (failure to act) on the part of the school. However, if, for instance, a patient had harassed a nurse in a healthcare institution, the institution could not have been held liable, as it does not have powers over the patients through which it could sanction their behaviour.

2.7 Instructions to discriminate (Article 2(4))

a) Prohibition of instructions to discriminate

In Hungary, instructions to discriminate are prohibited under national law. Instructions are not defined.

In the absence of a statutory definition and jurisprudence, it is not possible to assess with sufficient certainty whether instructions to discriminate include only explicit instructions or also preferences or suggestions with a discriminatory impact and/or encouragement or pressure. From the Hungarian term used (*utasítás*), it may be grammatically concluded that the instruction must be a sufficiently clearly formulated outline of the course to be followed by the instructed actor. However, this interpretation is hypothetical, as there is no case law on the matter.

Article 7(1) of the ETA specifies the instruction to discriminate (including instruction to harass, segregate and victimise) as a violation of the requirement of equal treatment.

In Hungary, instructions explicitly constitute a (*sui generis*) form of discrimination.

In the absence of a statutory definition and jurisprudence, it is unclear whether, in Hungary, instructions to discriminate do or do not require a hierarchical relationship between the instructor and the instructed person. From the Hungarian term used (*utasítás*), it may be grammatically concluded that there must be a hierarchical relationship between the instructor and the person instructed so that the instructor would be in the position to oblige the instructed person, at least to some extent. However, this interpretation is hypothetical, as there is no case law on the matter.

b) Scope of liability for instructions to discriminate

In Hungary, the instructor and the discriminator are liable.

Given that the instruction to discriminate is defined as a form of discrimination, sanctions available against other, more common forms of discrimination can be sought here too. If the person giving the instruction is known, then civil law sanctions for the violation of civil rights and sanctions that the equality body has the power to impose are at hand (these latter sanctions only apply if the instructions come from someone who falls under the ETA's scope).

In terms of the Civil Code (Article 6:540), if an employee causes damage to a third party in connection with his/her employment, liability in relation to the injured person lies with the employer, but if the damage was caused intentionally, the liability of the employee and the employer is joint and several.

In terms of Article 6:542, if an agent causes damage to a third party in connection with his/her assignment (e.g. if a third-party client issues an instruction to discriminate),

liability in relation to the injured person lies with the principal and the agent jointly and severally. The principal will be relieved of liability if he/she is able to prove that he/she has not acted wrongfully in terms of choosing, instructing and supervising the agent.

2.8 Reasonable accommodation duties (Article 2(2)(b)(ii) and Article 5 Directive 2000/78)

- a) Implementation of the duty to provide reasonable accommodation for persons with disabilities in the area of employment

In Hungary, the duty on employers to provide reasonable accommodation for persons with disabilities is included in the law and is defined, but – as explained below – the Kúria's jurisprudence has rendered it largely impossible to enforce the duty in an effective manner.

The obligation of reasonable accommodation appears in two places in the legal framework. Article 51(5) of the Labour Code sets forth the general obligation of reasonable accommodation by stipulating the following: 'when employing a person with a disability, the employer shall guarantee conditions for reasonable accommodation'.

In the context of the issue, mention must be made of Article 51(3) of the Labour Code, according to which employees may only be employed for work that may not entail disadvantageous effects for them, taking into consideration their physical features or maturity or health status. Taking into account changes in the health status of the employee, the employer shall adjust the working conditions and the working hours of the employee concerned.

In addition to this, Article 15 of the RPD Act sets forth a specific obligation to reasonably accommodate the special needs of persons with disabilities during the recruitment process.

Under Article 15(1) of the RPD Act, persons with disabilities should, if possible, be employed in integrated (ordinary) employment, or, in lieu of this in protected employment. (Integrated employment occurs when a person with a disability is employed at a workplace where the decisive majority of their co-workers are not persons with disabilities.)

Under Paragraph (2) of the same Article, the employer employing a person with a disability is obliged to provide accommodation at the workplace to the extent necessary for the performance of the work, i.e. in particular to ensure the appropriate refurbishment of tools and machines. Support from the state central budget can be requested to cover the expenses incurred by refurbishment. According to the text of the law, the employers of any employees with disability would be entitled to request such support, however, the relevant bylaws envisage such support only with regard to employees who have officially been recognised as persons with an altered ability to work. The provision does not contain any reference to the issue of disproportionate burden.

Under Paragraph (3), the employer is obliged to provide an accessible environment *in the course of the recruitment procedure* in order to enhance the access to employment of persons with disabilities.

Paragraph (4) states that this obligation is imposed on the employer if (a) the employer publicly advertised the vacancy; (b) when applying for the job, the person with a disability states their specific needs relating to the job interview; and (c) the accommodation of those needs does not impose a disproportionate burden on the employer. The burden will be regarded as disproportionate if compliance with the obligation would make it impossible for the employer to continue operating.

The obligation to provide reasonable accommodation also pertains to the public sector.

Examples of legislation setting forth the obligation in the public sector include:

- Article 75(3) of Act CXCIX of 2011 on Civil Servants;⁸²
- Article 91(3) of Act CXXV of 2018 on Governmental Administration;⁸³
- Article 46(1) of Act CVII of 2019 on Special Status Organisations and the Status of Persons Employed by Them;⁸⁴
- Article 66(4) of Act LII of 2023 on the Career Path of Teachers.⁸⁵

In other status laws (for instance, Act CLXII of 2011 on the Status and Remuneration of Judges),⁸⁶ the reasonable obligation is stipulated by invoking Article 51(5) of the Labour Code.

b) Case law

Although the legal framework to make the obligation of reasonable accommodation effective in the Hungarian legal system is in place, an October 2023 judgment of the Kúria has rendered the concept of reasonable accommodation largely inapplicable.

The legal dispute concerned a person employed (from 1995 on) as an unskilled labourer performing hard physical work. He was on a leave due to his incapacity to work between April 2020 and March 2021. In March 2021, it was concluded by the expert panel deciding on his entitlement to rehabilitation allowance that the degree of his health deterioration was 42 %, and he was only able to work in jobs that did not require intact hearing, and did not expose him to increased psychological or hard physical exertion. On this basis, his GP provided him with a certificate of labour suitability with these limitations, however, his employer refused to provide him with any actual work, but at the same time also refused to dismiss him (most probably because in this case he would have been entitled to a significant severance payment). Eventually, he quit on the basis that the employer had violated its obligations under the Labour Code. The employer's defence was that the employee had become unable to perform his old job, and it was not under an obligation to provide him with an alternative position, as Article 51(3) of the Labour Code only stipulates that if this is necessitated by a change in the health status of the employee, the employer must adequately modify the working conditions and the working hours, which means that there is no obligation to change the position itself.

In its judgment 1.Mf.31.023/2023/7 of 11 May 2023, the Budapest Appeals Court⁸⁷ concluded that the case fell under Article 51(5) of the Labour Code, and therefore, the employer was under the obligation to reasonably accommodate the complainant's specific needs stemming from his acquired disability. In doing so, the court extensively relied on the Employment Equality Directive, Articles 21 and 26 of the Charter of Fundamental Rights, the UN CRPD, and the CJEU's jurisprudence:

'According to the CJEU's jurisprudence, disability has to be understood as referring to a limitation that results in particular from long-term physical, mental or psychological impairments, which – in interaction with various barriers – may hinder

⁸² Act CXCIX of 2011 on Civil Servants (2011. évi CXCIX. törvény a közszolgálati tisztviselőkről), 30 December 2012, <https://net.jogtar.hu/jogszabaly?docid=a1100199.tv>.

⁸³ Act CXXV of 2018 on Governmental Administration (2018. évi CXXV. törvény a kormányzati igazgatásról), 21 December 2018, <https://net.jogtar.hu/jogszabaly?docid=a1800125.tv>.

⁸⁴ Act CVII of 2019 on Special Status Organisations and the Status of Persons Employed by Them (2019. évi CVII. törvény a különleges jogállású szervekről és az általuk foglalkoztatottak jogállásáról), 17 december 2019, <https://net.jogtar.hu/jogszabaly?docid=a1900107.tv>.

⁸⁵ Act LII of 2023 on the Career Path of Teachers (2023. évi LII. törvény a pedagógusok új életpályájáról), 6 July 2023, <https://net.jogtar.hu/jogszabaly?docid=a2300052.tv>.

⁸⁶ Act CLXII of 2011 on the Status and Remuneration of Judges (2011. évi CLXII. törvény a bírák jogállásáról és javadalmazásáról), 2 December 2011, <https://net.jogtar.hu/jogszabaly?docid=a1100162.tv>, Article 222.

⁸⁷ Budapest Appeals Court, judgment No. 1.Mf.31.023/2023/7, 11 May 2023, <https://eakta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=F%C5%91v%C3%A1rosi%20%C3%8Dt%C3%A9l%C5%91t%C3%A1bla&ugyszam=Mf.31023/2023/7&azonosito=2660ef13-abb3-4220-9517-74f6a904357d>.

the full and effective participation of the person concerned in professional life on an equal basis with other workers. This is in line with UN CRPD. The [HR Rail] judgment holds that Article 5 of Directive 2000/78 shall be understood in a way that the concept of “reasonable accommodation for disabled persons” includes the requirement that an employee [...] who has been found unsuitable to carry out the essential functions of the post for which he/she was recruited, must be reassigned to another position, regarding which he/she has the required qualifications, skills and labour suitability, provided that such measures would not impose a disproportionate burden on the employer.’⁸⁸

The court obliged the employer to pay the claimant his unpaid salary and other allowances, a severance payment (in the amount of altogether EUR 12 800, or HUF 4 556 160) and interest starting on the date when these payments would have been due.

However, the judgment was quashed by judgment Mfv.VIII.10.090/2023/7 of the Kúria, delivered on 11 October 2023,⁸⁹ which, in the author’s opinion, is in breach of the acquis as interpreted by the CJEU. The most important conclusions of the Kúria judgment are the following.

Article 51(3) of the Labour Code stipulates that when an employee’s health status changes, the employer is under obligation to adjust the working conditions and the working hours of the employee concerned. According to the Kúria, *argumentum a contrario*, this means that the employer is not obliged to adjust any other aspect of the labour contract, so the employer is not under the obligation to offer the employee another position that he or she would be capable of filling.

In this regard, there is a difference between the obligation of reasonable accommodation under Article 51(5) of the Labour Code (applicable to employees with a disability) and cases where the adjustment is made necessary by the employee’s health status (falling under Article 52(3) of the Labour Code). In the case that is the subject of this judgment, the claimant already had a hearing impairment when he started working for the employer; in the Kúria’s view, therefore, this disability cannot be regarded as a ground for reasonable accommodation, whereas the Budapest Appeals Court failed to examine and assess whether the deterioration in the claimant’s health (apart from the pre-existing hearing impairment) can be regarded as a long-term impairment amounting to disability.

The most problematic part of the Kúria’s judgment is its conclusion that, based on Recital (17) of Directive 2000/78 (‘This Directive does not require the recruitment, promotion, maintenance in employment or training of an individual who is not competent, capable and available to perform the essential functions of the post concerned or to undergo the relevant training, without prejudice to the obligation to provide reasonable accommodation for people with disabilities’), the employer would not be under obligation to offer to transfer the employee to another position even if the claimant was regarded as having a disability.

A mistranslation in the Hungarian version of Directive 2000/78 may have played a role in this interpretation. In the Hungarian text of Recital (17), the term ‘reasonable accommodation’ is not translated in the same way as in Article 5. In Article 5, reasonable accommodation is translated as ‘*ésszerű alkalmazkodás*’, which is the same term that appears in Article 51(5) of the Labour Code. However, in Recital (17), it is translated as ‘adequate measures taken in the interest of persons with disabilities’ (*fogyatékos személyek érdekében hozott megfelelő intézkedések*), which may have contributed to the Kúria’s overlooking of the second part of the recital (‘without prejudice to the obligation to

⁸⁸ See section 52 of the Budapest Appeals Court judgment.

⁸⁹ Kúria, judgment No. Mfv.VIII.10.090/2023/7, 11 October 2023, <https://eakta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=K%C3%BAr%20%26ugyyszam=Mfv.10090/2023/7&azonosito=5f21ac2d-9f6b-4d41-9374-7703bde1e02a>.

provide reasonable accommodation for people with disabilities’) and its failure to make the adequate connection between Article 5 and Recital (17).

In any case, however, the Kúria’s conclusion completely disregards the CJEU’s interpretation in the *HR Rail SA* case⁹⁰ and, owing to the precedent nature of published Kúria judgments, results in a situation whereby Hungarian practice regarding reasonable accommodation is not in compliance with the applicable EU acquis.

This interpretation not only constitutes a problem regarding those employees who become disabled while being employed but also renders reasonable accommodation obligations regarding access to employment void of real substance.

There is no reason to believe that a different approach would be applied regarding the public sector.

c) Definition of disability and non-discrimination protection

Under Article 4 of the RPD Act, persons with disabilities are those who have irreversible or long-term sensory, communication-related, physical, intellectual, psychosocial impairments or the accumulation thereof, which, in interaction with significant environmental, societal or other barriers, restrict or hinder their full and effective participation in society on an equal basis with others.

According to experts, in the absence of a *sui generis* definition of disability in the Labour Code, and since the provisions that are the most relevant from the point of view of reasonable accommodation are set out in the RPD Act, this definition of disability ought to be applied for the purposes of claiming reasonable accommodation.⁹¹

The judgment of the Budapest Appeals Court described above did not expressly address this issue, but invoked the CJEU’s definition (which is compatible with the definition provided by the RPD Act), and the Kúria’s judgment approved this approach, so this can be regarded as set practice in this regard.

There is no reason to believe that a different approach would be applied regarding the public sector.

d) Failure to meet the duty of reasonable accommodation for persons with disabilities

In Hungary, failure to meet the duty of reasonable accommodation in employment for persons with disabilities is recognised as a form of discrimination in practice.

While the failure to meet the duty of reasonable accommodation is not expressly regulated as a form of discrimination, it is regarded as such in practice. The logic behind the jurisprudence is outlined in a guideline issued by the Equal Treatment Advisory Board, which establishes that ‘the failure to guarantee accessibility to buildings and equal access to public services amounts to a breach of the requirement of equal treatment, so the scope of the ETA covers this omission. The [...] failure to guarantee accessibility shall be regarded as direct discrimination under Article 8 of the ETA, because as a result of this failure, persons with disabilities are treated less favourably than people without disabilities in their movement and their access to services.’⁹² So, where there is a statutory obligation to

⁹⁰ Judgment of 10 February 2022, *HR Rail SA*, C-485/20, ECLI:EU:C:2022:85.

⁹¹ Interview conducted by the author with legal officer of MEOSZ (National Federation of Organisations of People with a Physical Disability) in May 2023. The content is not available publicly.

⁹² Equal Treatment Advisory Board (2011) ‘Guideline No. 309/1/2011’ (II.11) TT, available at: https://www.ajbh.hu/documents/10180/3908613/TTaf_20110211-1.pdf/9c6b5cac-fe61-be99-941b-bf3d2ec3d347.

provide reasonable accommodation, failure to meet this obligation counts as discrimination.

An example is provided by a 2025 case, where the complainant using a wheelchair applied for a job, but when he appeared at the previously agreed date and time for his trial day, the doorman told him at first that there was no recruitment, and then that stairs were leading to the workshop, so the complainant could not enter anyway. This happened so despite the fact that – as required by Article 15 of the RPD Act (see under section 2.8.a) – the complainant had indicated to the prospective employer in advance that he had a wheelchair. Referring to the employer's obligations under Article 15 of the RPD Act and establishing that the conditions for reasonable accommodation in the recruitment process had been in place (the position was publicly advertised; the applicant warned the employer in advance about his special needs; and accommodating these needs would not have posed a disproportionate burden on the employer), the Ombudsman acting as equality body concluded that the employer directly discriminated against the complainant, warned the employer and banned it from future violations.⁹³

If, however, no statutory obligation to provide reasonable accommodation is in place (e.g. to adapt the working environment in order to make the employer capable of offering employment to a person with a disability), the failure to meet the obligation cannot be sanctioned by the anti-discrimination legislation.

In cases where the failure to provide reasonable accommodation amounts to discrimination, the same sanctions can be applied as for other instances of discrimination (e.g. a fine by the equality body, damages awarded by the labour or civil court). For a description of possible sanctions, see sections 6.1 and 6.5, below.

The same is true for the shifting of the burden of proof. In areas where a statutory obligation to provide reasonable accommodation exists, it ought to be sufficient for the claimant to substantiate the existence of the protected ground and the disadvantage (the lack of reasonable accommodation). This would then place the burden on the respondent to provide a justification for the failure (e.g. the disproportionate nature of the burden). However, in the absence of an express legal provision and consolidated case law, it must be noted that the above is mainly the author's interpretation of the legal framework on the basis of an analogy with the situation in the area of accessibility.

There is no reason to believe that a different approach would be applied regarding the public sector.

e) Duties to provide reasonable accommodation in areas other than employment for persons with disabilities

In Hungary, there is a legal duty to provide reasonable accommodation for persons with disabilities outside the employment field.

Reasonable accommodation duties can be found in the area of education. One example is the accommodation to be provided to 'children with special educational needs', i.e. children who, under Article 4 of the National Public Education Act, 'are diagnosed by the specialised expert panel to have a locomotor, sensory, mental or speech disability, multiple disabilities, autism spectrum disorder or any other psychological development disorder (severe disorder of learning, attention or behaviour), and therefore require special attention'.

Under Article 47 of the Public Education Act, if, on the basis of the opinion of the educational expert panel, the child with special educational needs is placed in an integrated kindergarten or school, the educational institution will provide the specialist (specialist

⁹³ Ombudsman, [EBF-AJBH-58/2025](#), July 2025.

teacher, speech therapist, conductive educator, etc.) with the special curriculum and educational materials required by the child's specific needs. The maintainers (i.e. the entities responsible for maintaining the school: the state or the private foundation) may not be exempted from this duty by referring to the absence of the required financial resources, especially as, under Article 47 (10), the required specialist may be provided through the network of travelling specialist and conductive teachers. This network, as specified by Article 15/A, is operated by the regional state centre responsible for maintaining schools.

The equality body has dealt with several cases in which educational institutions refused to provide such accommodation, or only agreed to provide it partially, referring to the difficulties this obligation would impose on them. In one case, for example, the school failed to provide a pupil with autism with the autism-specific developmental sessions that had been prescribed by the expert panel. The Ombudsman as equality body did not accept the school district's reference to the absence of qualified therapists and concluded that the school district had committed direct discrimination against the complainant by not providing the services aimed at accommodating the pupil's specific needs.⁹⁴

An example from the field of access to goods and services is the case where a bakery refused to allow the blind complainant to enter its premises with his guide dog. In this case the Ombudsman concluded that under Ministerial Decree 27/2009. (XII. 3.) SZMM, guide dogs shall be allowed to enter food stores and restaurants too. Therefore, by denying entry, the bakery prevented a measure aimed at evening out existing inequalities from being applied, and by doing so, put the complainant, on the basis of his disability, into a situation that is less favourable than that of persons in similar situation (also wishing to use a service). Therefore, the bakery's actions amounted to direct discrimination on the basis of disability.⁹⁵

In other areas, while there are no explicit legal norms prescribing reasonable accommodation, case law suggests that courts and the equality body classify the unjustified refusal to provide reasonable accommodation as a form of discrimination.

An example of healthcare-related case law is provided by Case No. EBH/10/2013 decided by the Equal Treatment Authority. It was an *actio popularis* claim against a healthcare institution that refused to provide stomatology treatment to HIV-positive patients and patients with hepatitis and instead sent them to another hospital for treatment. The institution tried to defend its practice by referring to the fact that the extra protective measures it would need to take in order to treat such patients alongside other patients (and in this sense accommodate the specific needs stemming from their health status) would impose a disproportionate financial burden on the institution. The Authority did not accept the defence – as the institution failed to provide any evidence to substantiate it – and concluded that the patients had suffered direct discrimination.⁹⁶

f) Duties to provide reasonable accommodation in respect of other grounds

In Hungary, there is no legal duty to provide reasonable accommodation in respect of other grounds in the public or the private sector.

The issue also rarely arises in case law. One case ended with a friendly settlement before the Equal Treatment Authority. The complainant was a Jewish person who complained that a language school had not provided him with an option to take a language exam on a day other than Saturday, on the basis that all of the school's exams were held on Saturdays. The school offered him the option to take the exam in Vienna on a weekday, but the complainant did not accept this solution. Eventually the parties reached a friendly

⁹⁴ Ombudsman, [EBF-AJBH-242/2024](#), October 2024.

⁹⁵ Ombudsman, [EBF-AJBH-342/2023](#), November 2023.

⁹⁶ Equal Treatment Authority, EBH/10/2013, March 2013.

settlement, when the language school agreed to allow the complainant to take the exam on a weekday at a location in Hungary.⁹⁷

⁹⁷ Equal Treatment Authority, [EBH/91/2020](#), no date is available.

3 PERSONAL AND MATERIAL SCOPE

3.1 Personal scope

In relation to the issue of personal scope, no cases of discrimination stemming from and/or involving the use of artificial intelligence and/or automated systems have arisen so far in Hungary.

3.1.1 EU and non-EU nationals (Recital 13 and Article 3(2), Directive 2000/43 and Recital 12 and Article 3(2), Directive 2000/78)

In Hungary, there are no residence or citizenship/nationality requirements for protection under the relevant national laws transposing the directives. Article 1 of the ETA proclaims that 'based on the requirement of equal treatment, natural persons and groups of natural persons as well as legal persons and organisations that do not have legal personality shall be treated in line with the provisions of this law, with equal respect and consideration, and equal account shall be taken of individual features'. Thus, all natural persons fall under the ETA's protection irrespective of nationality/citizenship.

This includes irregular migrants, which does not however mean that the fact that someone is an irregular migrant cannot result in the justification of differentiation, e.g. because this fact makes the irregular migrant's situation not comparable to that of another person, or because the irregularity of his or her stay may be regarded as a reasonable ground for the differentiation. However, as a general rule, irregular migrants, as natural persons who are under Hungarian jurisdiction, are also protected by the ETA.

3.1.2 Natural and legal persons (Recital 16, Directive 2000/43)

a) Protection against discrimination

In Hungary, the personal scope of anti-discrimination law covers natural and legal persons for the purpose of protection against discrimination.

As mentioned above, Article 1 of the ETA proclaims that 'based on the requirement of equal treatment, natural persons and groups of natural persons as well as legal persons and organisations that do not have legal personality shall be treated in line with the provisions of this law, with equal respect and consideration, and equal account shall be taken of individual features'.

Furthermore, when defining discrimination, Articles 8 and 9 of the ETA refer to 'a person or group' and 'certain persons or groups'. The ETA itself does not define the term person for its purposes. Thus, the terminology of the Civil Code – where persons are defined as natural (*természetes*) or legal (*jogi*) – shall apply if interpretation is necessary.

Protection against discrimination can also be sought under Articles 2:42, 2:43 and 2:51 of the Civil Code. Under Article 3:1 of the Civil Code, provisions relating to protection against the violation of inherent personality rights (which include the right to non-discrimination) apply to legal persons unless, due to the nature of the protection, it is limited to natural persons. For the purposes of protection, therefore, legal persons are generally included.

b) Liability for discrimination

In Hungary, the personal scope of anti-discrimination law covers certain natural and legal persons for the purpose of liability for discrimination.

For historical reasons, the ETA primarily lists (mostly public) legal entities in relation to liability. Under Article 4, these include: the Hungarian state, local and nationality self-

governments, public authorities, the army, the police, prison services, border guards, public foundations and associations, organisations representing employees' and employers' interests, bodies providing public services, public education institutions, institutions providing vocational training and higher education institutions, persons and institutions providing social and child protection services, museums, libraries, private pension schemes, voluntary mutual insurance schemes, health service providers, political parties and other bodies funded from the central budget.

Four groups of private actors are mentioned in Article 5. Private actors fall under the scope of the ETA and must therefore abide by the requirement of equal treatment if they (i) offer a public contract or make a public offer, or (ii) provide public services or sell goods to the public. The third group includes entrepreneurs, companies and other private legal entities (including educational institutions and their maintainers) availing of state support, while the fourth group comprises employers and contractors.

Those private actors who do not fall into these four categories are liable for discrimination under the general norms of the Civil Code pertaining to the protection of inherent personality rights.

The following are expressly excluded from the ETA's scope (Article 6): (i) family relations; (ii) legal relations between relatives; (iii) issues relating to the faith of churches (to use the exact – and not entirely clear – wording of the Hungarian legislation: 'a denominational legal person's legal relationship directly related to the denomination's religious activity'); (iv) the internal operations of NGOs and legal entities, except for those operations establishing and terminating membership. Political parties are also an exception to this rule: in their case, only differentiation based on political views falls outside the scope of the ETA.

The ETA's solution concerning personal scope may easily be in breach of the directives, as it exempts most private and certain public actors from the ETA's application in sectors covered by the directives.

The reason for this is that the ETA does not enumerate the fields falling under its scope: it approaches the issue of material scope from the perspective of personal scope when it says that the entities enumerated in Article 4 (see the list above) 'shall respect the requirement of equal treatment in all their actions and practices' (no matter which sector they operate in).

Although the ETA's scope extends to only four limited groups of private actors, the material scope within which they must abide by the requirement of equal treatment may not be defined either.

While it is easy to find the corresponding material scope (employment and access to publicly available goods and services) with regard to some of these groups (e.g. employers or private actors offering goods and services, respectively), such a correspondence is difficult to make with regard to the other two main categories (private actors making a public offer and private actors receiving state funds).

It can be said, therefore, that the material scope of the ETA covers all possible fields and sectors (and not only the ones included in the directives) with regard to the (mostly) public entities listed in Article 4 and to some of the private actors listed in Article 5.

Nevertheless, the ETA puts special emphasis on five sectors, in relation to which special rules (e.g. special exempting provisions) are formulated. These sectors are employment (Articles 21 to 23); social protection and healthcare (Articles 24 to 25); housing (Article 26); education and training (Articles 27 to 29); and access to goods and services (Articles 30 and 30/A). However, this does not mean that the requirement of equal

treatment shall be respected only in these fields by the entities falling under the ETA's personal scope. These sectors are highlighted only due to their special importance.

The issue of personal and material scope is particularly significant because at this point the Hungarian regulation may be in breach of the directives: the directives have a limited material scope but within that material scope they apply to all persons; the ETA has a practically unlimited material scope, but its personal scope covers only four groups of private actors. Therefore, in the author's view, the ETA is in breach of the *acquis* in the sectors included in the material scope of the directives as it does not prescribe the obligation of non-discrimination for all private actors. This omission is not compensated for by the fact that the ETA's material scope covers fields that do not fall under the scope of the directives. This is so, in spite of the fact that the private actors falling under the scope of the ETA are defined in such a way that an actual breach is unlikely to occur. An exception is harassment. It is not possible to act under the ETA against co-workers in the event of harassment, as only the employer can be held liable. However, in such cases, the provisions of the Civil Code protecting inherent personality rights can be invoked and they provide a different type of protection (see Section 6.1 on sanctions that can be applied by civil courts).

3.1.3 Private and public sector including public bodies (Article 3(1))

a) Protection against discrimination

In Hungary, the personal scope of national law covers the private and public sector, including public bodies, for the purpose of ensuring protection against discrimination.

As outlined above, Article 1 of the ETA proclaims that 'based on the requirement of equal treatment, natural persons and groups of natural persons as well as legal persons and organisations that do not have legal personality shall be treated in line with the provisions of this law, with equal respect and consideration, and equal account shall be taken of individual features'. The provision does not differentiate between protected persons or groups that belong to the public sector and those that belong to the private sector.

b) Liability for discrimination

In Hungary, the personal scope of anti-discrimination law covers the public sector, including public bodies, and certain segments/actors in the private sector for the purpose of liability for discrimination.

For historical reasons (as outlined above), the ETA lists primarily public legal entities under Article 4 in relation to liability, while only four groups of private actors are enumerated in Article 5.

If, however, the Civil Code's provisions pertaining to the protection of inherent personality rights are interpreted widely enough to cover discriminatory acts by those private actors who do not fall under the ETA's scope, then liability for discrimination can be considered to extend to the whole private sector with the limitation that certain provisions (such as the provision governing the shifting of the burden of proof) apply only in procedures concerning the four groups covered by the ETA.

3.2 Material scope

In relation to the issue of material scope, no cases of discrimination stemming from and/or involving the use of artificial intelligence and/or automated systems have arisen so far in Hungary.

3.2.1 Conditions for access to employment, to self-employment or to occupation, including selection criteria, recruitment conditions and promotion, whatever the branch of activity and at all levels of the professional hierarchy (Article 3(1)(a))

In Hungary, national legislation prohibits discrimination in relation to conditions for access to employment, to self-employment or to occupation, including selection criteria, recruitment conditions and promotion, whatever the branch of activity and at all levels of the professional hierarchy for the five grounds and in both the private and public sector, as described in the directives.

Gender identity/expression and sex characteristics may be covered in national legislation under 'other characteristics'. At the time of writing, there is no case law clarifying this matter.⁹⁸

Gender expression and sex characteristics can also be brought under the protection offered by the category of 'other characteristics'; however, the same uncertainty arises with regard to these.

Article 3 of the ETA defines 'labour relations' (*foglalkoztatási jogviszony*) and 'other relationships relating to employment' (*munkavégzésre irányuló egyéb jogviszony*) in such a way and so widely that they cover all forms of employment, including self-employment; public employment; the special employment relationship applied in the education system; the special employment relationship pertaining to healthcare professionals; the administrative service relationship in law enforcement bodies; the service relationship of national security personnel; the legal relationship of independent contractors; members of specialised agricultural or producers' groups; and all the elements of an activity outlined in company or civil law that are related to the performance of work.

Article 5 of the ETA extends the obligation to comply with the principle of equal treatment to 'employers' in the wide sense of the term.

Article 21 of the ETA prescribes that the principle of equal treatment be respected in relation to:

- access to employment, including public job announcements and selection criteria;
- actions leading up to employment in the wider sense;
- actions relating to the commencement and termination of employment.

3.2.2 Employment and working conditions, including pay and dismissals (Article 3(1)(c))

In Hungary, national legislation prohibits discrimination in working conditions, including pay and dismissals, for all five grounds and for both private and public employment.

⁹⁸ The 15th Amendment of the Fundamental Law (adopted by parliament on 14 April 2025) added to Article L (1) of the Fundamental Law the following: 'A human being is either a man or a woman.' The explanatory memorandum of the amendment makes it clear that the aim is to constitutionally prohibit legal gender recognition for all transgender people, which has already been banned by lower-level law since 2020. Furthermore, Act V of 2025 on Certain Legislative Amendments related to the 15th Amendment of the Fundamental Law, amended the ETA and deleted 'gender identity' from the list of the grounds on which protection against discrimination is granted, and at the same time replaced the term 'sex' with the term 'sex and corresponding identity' in the list. This has significantly weakened the legal protection of trans people against discrimination. Although the list of protected grounds remains open (so, in principle, being transgender could fall under the category of 'other protected ground'), the express removal by the legislator of this ground from the list is likely to raise fierce legal debates regarding whether that is a viable interpretation, which – irrespective of the outcome of such debates – certainly weakens the level of protection.

As explained above (see footnote 98), gender identity/expression and sex characteristics may be covered in national legislation under 'other characteristics'.

As mentioned above, Article 3 of the ETA defines labour relations in such a way that they cover a very wide range of legal relationships within the framework of which work is carried out. Article 5 lists employers and persons with the right to give instructions in other legal relationships relating to employment (including the legal relationship entered into by principals and the legal relationship of independent contractors) among those private actors who fall under the personal scope of the ETA.

In addition, Article 21 of the ETA prescribes that the principle of equal treatment be respected in relation to:

- actions relating to the commencement and termination of employment (dismissals);
- remuneration;
- working conditions;
- promotion and training;
- liability for damages and disciplinary actions;
- different forms of parental and other types of leave.⁹⁹

3.2.3 Access to all types and all levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience (Article 3(1)(b))

In Hungary, national legislation prohibits discrimination in vocational training outside the employment relationship, such as that provided by technical schools or universities, or such as adult lifelong learning courses. This protection extends to all five grounds.

As explained above (see footnote 98), gender identity/expression and sex characteristics may be covered in national legislation under 'other characteristics'.

As mentioned above, Article 3 of the ETA defines labour relations in such a way that they cover a very wide range of legal relationships within the framework of which work is carried out. Article 5 lists employers and persons with the right to give instructions in other legal relationships relating to employment among those private actors who fall under the personal scope of the ETA.

In addition, Article 21 of the ETA provides that the principle of equal treatment must be respected in relation to any training conducted before or during employment (in the widest sense), so all types and levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience, can be deemed to be covered.

Furthermore, Article 27 of the ETA (defining forms of education falling under the scope of the law) is so wide that all forms of vocational training will definitely fall under the law's definition of education. Under Article 27, 'the principle of equal treatment extends to any form of care, education or training, which a) is carried out in accordance with requirements approved or prescribed by the state, or b) is supported by the state ba) by direct normative budgetary subsidy, or bb) indirectly, especially through tax benefits (hereinafter collectively: education)'.

Even if non-accredited adult lifelong learning courses provided by private actors do not fall under the term 'education' within the meaning of the ETA, they will still be covered as a type of service accessible to the public (Article 5: private actors falling under the law's personal scope).

⁹⁹ Irrespective of sexual orientation, gender, or any other characteristics.

Since the ETA applies to all forms of education, vocational training outside the employment relationship (by technical schools, universities or any other educational institution) also falls under the scope of the Hungarian national anti-discrimination legislation.

3.2.4 Membership of, and involvement in, an organisation of workers or employers, or any organisation whose members carry on a particular profession, including the benefits provided for by such organisations (Article 3(1)(d))

In Hungary, national legislation prohibits discrimination in relation to membership of and involvement in workers' or employers' organisations as formulated in the directives for all five grounds and for both private and public employment.

As explained above (see footnote 98), gender identity/expression and sex characteristics may be covered in national legislation under 'other characteristics'.

Article 21 of the ETA expressly lists membership of and participation in workers' organisations as an area in which the requirement of equal treatment must be complied with.

Organisations representing the interests of workers or employers are expressly listed under Article 4 of the ETA, which defines the personal scope of the law. Such organisations are therefore obliged to abide by the requirement of equal treatment in all their actions, practices, policies and measures, which of course also include the benefits that they provide. The amended provision also makes it clear that not only the external relations of interest groups of employers and employees, but also the exercise of members' rights and participatory rights in such organisations fall under the scope of the law.

'Public associations' (such as bar associations and various professional chambers) fall under the personal scope of the ETA (see above).

3.2.5 Social protection, including social security and healthcare (Article 3(1)(e) Directive 2000/43)

In Hungary, national legislation prohibits discrimination in social protection, including social security and healthcare, as formulated in the Racial Equality Directive for all five grounds listed in the directives.

As explained (see footnote 98), gender identity/expression and sex characteristics may be covered in national legislation under 'other characteristics'.

With regard to social protection, Article 24 of the ETA stipulates that the requirement of equal treatment will be enforced in relation to social security, specifically when any form of financial or in-kind assistance that is financed from social security schemes is requested and provided, and in the case of social or child protection allowances.

Pursuant to Article 25 of the ETA, the following areas are specified in relation to healthcare: participation in programmes aimed at the prevention of diseases and screening; medical services aimed at healing and prevention; the use of premises, nutrition and the satisfaction of other needs.

Article 25(2) allows for preferential treatment – based specifically on the state of health or disability – to be accorded in an act of Parliament or a Government decree based on an act of Parliament in both the fields of social security and healthcare.

Article 7(1) of Act CLIV of 1997 on healthcare¹⁰⁰ (Healthcare Act) reinforces the prohibition of discrimination in the field of healthcare, when it states that all patients are entitled, within the framework prescribed by law, to receive health services that meet the requirement of equal treatment. (Since the law invokes the ETA by referring to the 'requirement of equal treatment', this provision covers all 19 grounds listed in Article 8 of the ETA.)

An example of jurisprudence in this area is the case of the mandatory maternity clothing for friends and family members of pregnant mothers, which disproportionately affected Roma women (described above in Section 2.5), or the case where a hospital refused to provide complex rheumatic treatment to a person with Down's syndrome without assessing whether his disability would in fact prevent him from being able to participate in the treatment and comply with instructions, which according to the Ombudsman amounted to direct discrimination.¹⁰¹

a) Article 3(3) exception (Directive 2000/78)

In relation to religion or belief, age, disability and sexual orientation, national law does not seek to rely on the exception in Article 3(3), Directive 2000/78.

3.2.6 Social advantages (Article 3(1)(f) Directive 2000/43)

In Hungary, national legislation does not expressly prohibit discrimination in social advantages as formulated in the Racial Equality Directive. However, discrimination based on any of the five grounds listed in the directives in this area can easily be argued to be unlawful under Hungarian non-discrimination legislation, especially if the discriminator falls under the personal scope of the ETA (i.e. it is listed in Article 4 of the ETA), since all kinds of disadvantageous differentiations made by such actors are regarded as discrimination under Article 8, irrespective of the area in which they take place.

An example is provided by case No. 68/2008 decided by the Equal Treatment Authority, in which the Authority established discrimination based on political opinion when the mayor of a village instructed the conductor on the 'village bus' (a bus line operated by the local council to guarantee appropriate transportation for residents for social purposes) not to allow the complainant to get on the bus. The reason for the instruction was that the complainant's political views were different from those of the mayor, and several conflicts had arisen between the two of them as a result.

This protection extends to all five grounds. As explained above (see footnote 98), gender identity/expression and sex characteristics may be covered in national legislation under 'other characteristics'. Gender expression and sex characteristics can also be brought under the protection offered by the category of 'other characteristics'; however, the same uncertainty arises with regard to these.

In Hungary, the lack of definition of social advantage does not raise problems.

3.2.7 Education (Article 3(1)(g) Directive 2000/43)

In Hungary, national legislation prohibits discrimination in education as formulated in the Racial Equality Directive. This protection extends to all five grounds.

As explained above (see footnote 98), gender identity/expression and sex characteristics may be covered in national legislation under 'other characteristics'.

¹⁰⁰ Act CLIV of 1997 on healthcare (1997. évi CLIV. törvény az egészségügyről), 23 December 1997, http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=99700154.TV.

¹⁰¹ Ombudsman, Decision No. [EBF-AJBH-174/2021](#), April 2021.

The ETA devotes a chapter to education, which means that that is where the bulk of anti-discrimination provisions are to be found.

Article 4 of the ETA lists public education institutions, institutions providing vocational training and higher education institutions among those entities that are obliged to comply with the requirement of equal treatment.

Under Article 7(1) of the ETA, segregation is regarded as a breach of the requirement of equal treatment. Article 10(2) of the ETA states that 'segregation is a behaviour aimed at separating individuals or a group of persons from other individuals or another group of persons in a comparable situation, based on a characteristic defined in Article 8, without an express authorisation set out in an Act of Parliament.' The provision on segregation is included in the ETA to clearly deem 'separate but equal' types of behaviour unlawful. If separation also entails some disadvantage (e.g. lower standard education for the separate Roma class within a primary school), it can be qualified as direct discrimination. If, however, it is difficult to prove in a given case that the separate group (the Roma class) suffers disadvantages other than those stemming from the nature of such separation, the provision on segregation may be relied upon. This rule exempts the victims of such practices from the obligation to prove that segregation is in itself a disadvantage, therefore it may be regarded as a further easing of the rules regarding the provision of evidence compared to the reversed burden of proof (see Section 6.3).

In a chapter entitled 'Education and training', the ETA provides for the following, under Article 27:

'(1), the principle of equal treatment extends to any care, education or 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 as defined in Paragraph (1), particularly in:
a) determining the conditions of accessing education and assessing applications;
b) defining and setting the requirements for education;
c) evaluating performance;
d) providing and using services related to education;
e) accessing benefits related to education;
f) providing accommodation and subsistence in dormitories;
g) issuing academic certificates and diplomas;
h) accessing vocational guidance; and
i) terminating the relationship related to participation in education.'

Article 27(3) not only prohibits segregation in an educational institution, or in a division, class or group within such an educational institution, but also perceives as a form of discrimination education limited to a care or educational system, or a care or educational system or institution created or maintained according to standards that do not meet accepted professional requirements or do not comply with professional rules, and thus do not ensure that pupils or students can expect to have a reasonable opportunity to prepare for state exams.

Paragraph (4) declares that educational institutions 'shall not have groups pursuing extracurricular activities, pupil or student societies, or other organisations of pupils, students or parents whose objective is to discredit, stigmatise or exclude individuals or groups'.

According to Article 28(1), the organisation of education for students of one sex does not violate the principle of equal treatment, provided that participation in such education is voluntary, and will not result in any disadvantages for the participants. As for voluntary single-sex education, Article 28(2) states that voluntary religious education may be taken to conform to the principle of equal treatment if in primary and secondary education, the parents voluntarily choose such an education and in college or university, the students themselves are voluntary participants, and the education based on religious or other ideological conviction is organised in a way that the goal or the curriculum of the education justifies the creation of separate classes or groups. It is an additional requirement that this does not result in any disadvantage for those participating in such education and the education complies with the requirements approved, laid down and subsidised by the state.

The ETA's provisions on education were augmented in response to an infringement procedure initiated by the European Commission against Hungary with a formal letter of notice on 26 May 2016, requesting that Hungary ensures the segregation-free education of Roma children. In addition to expressing concerns about the fact that Roma children are disproportionately overrepresented in special schools for children with intellectual disabilities, the Commission urged Hungary to bring its national law on equal treatment and education and the implementation of its education policies in line with the Racial Equality Directive.¹⁰²

Subsequently, references to national or ethnic minority education were removed from Article 28(2) (which now only contains provisions pertaining to religious education), and new provisions were inserted into Article 28.¹⁰³ The amendments entered into force on 1 July 2017 and read as follows:

'(2a) The organisation of education based on religious or other ideological conviction as set forth in Paragraph (2) shall not result in segregation based on characteristics listed in Article 8 b) to e) [racial affiliation, colour of skin, nationality (not in the sense of citizenship) or belonging to a national minority].
(2b) If the education is organised on the basis of belonging to a national minority, the principle of equal treatment is not violated only if, in addition to meeting the requirements set forth in Paragraph (2), the following criteria are also met:
(a) acquiring the knowledge required by the core curriculum is guaranteed at the same level as in the majority education, and
(b) education based on belonging to a national minority complies with the requirements set forth in the Act on the Rights of Nationalities.'

The codification of the exceptions allowed by Paragraphs (2) to (2b) was necessary to make separate religious and minority education possible (the Nationalities Act, for example, allows minority parents to initiate the formulation of separate minority classes for their children, where they can learn the minority language and minority culture). To maintain the legality of such classes, an exempting rule had to be inserted.

It must be underlined, however, that such separate education is deemed compatible with the principle of non-discrimination only if participation is voluntary. At primary and secondary level, the pupils' and students' parents have to initiate the forming of such classes or groups on a voluntary basis, whereas in higher education it is based on the students' voluntary participation. Another condition is that such education be of equal value with ordinary (i.e. not separate) education. This is further detailed in relation to national and ethnic minority education by Paragraph (2b), which claims that such education must

¹⁰² See European Commission (2016) 'May infringements package: key decisions', 26 May 2016, http://europa.eu/rapid/press-release_MEMO-16-1823_en.htm.

¹⁰³ Act XCVI of 2017 on the Amendment of Act CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities and Act CXC of 2011 on National Public Education (2017. évi XCVI törvény az egyenlő bánásmódról és az esélyegyenlőség előmozdításáról szóló 2003. évi CXXV. törvény és a nemzeti köznevelésről szóló 2011. évi CXC. törvény módosításáról), 27 June 2017, <https://net.jogtar.hu/jogszabaly?docid=A1700096.TV×hift=ffffff4&xtreferer=00000001.TXT>.

guarantee that the acquisition of knowledge as required by the core curriculum is at the same level as the knowledge acquired in a majority education.

The National Public Education Act was also amended when Paragraphs (2a) and (2b) were inserted into Article 28 of the ETA. The new Article 34/A provides that, if, on the basis of Article 28(2) to (2b) of the ETA, an educational institution, class or pre-school group is created which provides education based on religion and belonging to a national minority, it shall meet the requirements pertaining to both religion- and nationality-based education as set out in the National Public Education Act and the Act on Nationalities.

While the law looks unproblematic on paper and it seems to guarantee that education organised on the basis of religion or belonging to a national minority would not result in segregation and that the quality of such education would meet national standards, the practice leaves much to be desired, as will be outlined below.

Under Paragraph (3) of Article 28 of the ETA, a legal act may divert from the requirement of equal treatment concerning admission criteria in respect of educational institutions serving the protection of linguistic or cultural identity, or denominational or national minority schools.

Under Article 29, a Government decree created pursuant to the law or the authorisation thereof may stipulate an obligation to differentiate positively in favour of a specified group of participants in education within or outside the school system in respect of education or training.

The grounds cited most often in relation to discrimination in education are disability and Roma origin.

Under Article 13(1) of the RPD Act, persons with disabilities have the right to participate in early development and care, kindergarten education, school education, developmental preparation, vocational training, adult training and tertiary education in accordance with their state and age and in line with the provisions of the relevant laws. Under Article 13(2), if, based on the opinion of the specialised expert panel, it is advantageous for the development of their skills, persons with disabilities shall participate in integrated kindergarten and school education.

However, in practice, the situation is far from unproblematic. Issues include the high number of children with disabilities who are educated in a non-integrated manner; the shortage of well-qualified specialists who could support the development of children with special educational needs in the mainstream schools; the absence of adequate knowledge on disabilities on the part of teachers and other persons working in education; and the lack of accessibility to adequate education due to the authorities' failure to provide the required special conditions close to their homes.¹⁰⁴

The 2024 annual report of the Commissioner for Educational Rights, published in 2025, shows that these conclusions are still valid. For instance, according to the report, several complaints were submitted because the schools and the teachers had disregarded the recommendations of the expert panels, and the schools had failed to provide the children with the prescribed developmental services.¹⁰⁵ The report emphasises that children with disabilities, and their parents, are often vulnerable, since they are not able to exercise their rights, partly because there is a lack of awareness of the relevant laws among not only the

¹⁰⁴ Child Rights NGO Coalition (2017), *Hungary - List of issues submissions prepared by the Child Rights NGO Coalition*, pp. 12-15, available at: <https://unicef.hu/wp-content/uploads/2015/10/List-of-issues-submissions-prepared-by-the-Child-Rights-NGO-Coalition-1.pdf>.

¹⁰⁵ Commissioner for Educational Rights (2025), *Az oktatási jogok biztosának beszámolója 2024. évi tevékenységéről* (Report of the Commissioner for Educational Rights on its activities in 2024), https://www.oktbiztos.hu/ugyek/jelentes2024/ojb_2024_beszamolo.pdf, p. 59.

children and the parents but also among the persons and institutions that are supposed to provide them with educational services.¹⁰⁶ There are, however, instances where the violation of the rights of pupils with disabilities does not stem from the lack of information but instead constitutes severe professional malpractice – for example, the report gives account of a case in which a teacher told a student with a speech impairment to finally learn how to speak and repeatedly humiliated him in front of the whole class.¹⁰⁷

The Ombudsman as an equality body has also dealt with several cases in which parents complain that educational institutions fail to provide their children with the special services that would enable them to participate effectively in integrated education. In 2025, out of the 22 noteworthy cases published on the Ombudsman's website, five concerned the education of children with disabilities or long-term health impairments (such as diabetes or severe gluten sensitivity).¹⁰⁸

Cases concerning sexual orientation have also been dealt with under the ETA.¹⁰⁹

a) Trends and patterns regarding Roma pupils

In Hungary, the education of Roma pupils is characterised by specific trends and patterns, such as segregation.

As stated above, the legal framework was amended in response to the infringement procedure initiated by the European Commission, with a view to strengthening compliance with the requirements of the Racial Equality Directive. However, despite the detailed legislative framework, segregation of Roma pupils in different forms is still widespread in Hungary, and the situation seems to be deteriorating due to a number of factors, including the centralisation of the educational system after 2010, in parallel with a court-established failure of the state authorities to make meaningful efforts to end segregation, as well as the steep increase in the number and proportion of denominational schools within the Hungarian educational system, which has only 'facilitated the flight of local elites from state-owned schools'¹¹⁰ and boosted the extent of segregation.¹¹¹

While the changes in the definition of 'disadvantaged' (*hátrányos helyzetű*) and 'multiply disadvantaged' (*halmozottan hátrányos helyzetű*) children have made it more difficult to conduct comparable impact studies,¹¹² statistical data suggests that the degree of segregation is on the rise. The latest available data regarding the issue comes from a 2023 study published in April 2024. According to this study, the segregation index (the degree to which 'disadvantaged' and 'multiply disadvantaged' children are separated from non-disadvantaged peers in the course of their education) increased nationally from 27.2 to

¹⁰⁶ Commissioner for Educational Rights (2025), *Az oktatási jogok biztosának beszámolója 2024. évi tevékenységéről* (Report of the Commissioner for Educational Rights on its activities in 2024), https://www.oktbiztos.hu/ugyek/jelentes2024/ojb_2024_beszamolo.pdf, p. 59.

¹⁰⁷ Commissioner for Educational Rights (2025), *Az oktatási jogok biztosának beszámolója 2024. évi tevékenységéről* (Report of the Commissioner for Educational Rights about his activities in 2024), https://www.oktbiztos.hu/ugyek/jelentes2024/ojb_2024_beszamolo.pdf, p. 10.

¹⁰⁸ Ombudsman, EBF-AJBH-70/2025, EBF-AJBH-110/2025, EBF-AJBH-115/2025, EBF-AJBH-125/2025 and EBF-AJBH-282/2025.

¹⁰⁹ See, for instance, Kádár, A. (2025), *Country report Non-discrimination: Hungary 2025*, European network of legal experts in gender equality and non-discrimination, p. 49, available at: <https://www.equalitylaw.eu/downloads/6366-hungary-country-report-non-discrimination-2025>.

¹¹⁰ See Fejes, J. B. and Szűcs, N. (eds.) (2018), *En vétkem. helyzetkép az oktatási szegregációról* (Mea Culpa. State of affairs in educational segregation), Szeged, Motiváció Oktatási Egyesület, available at: https://motivaciomuhely.hu/wp-content/uploads/2018/05/%C3%89n-v%C3%A9tkem_online.pdf, p. 15.

¹¹¹ For more information, see Kádár, A. (2022) *Country report Non-discrimination: Hungary 2021*, European network of legal experts in gender equality and non-discrimination, available at: <https://www.equalitylaw.eu/downloads/5481-hungary-country-report-non-discrimination-2021-1-88-mb>.

¹¹² Due to changes in legislation, certain categories of children who used to fall into the 'multiply disadvantaged' group have been categorised as 'disadvantaged' since 31 August 2013. This blurs certain important differences and makes comparisons between the pre- and post-2013 periods very difficult.

40.2 and from 29.2 to 36.4, respectively, between 2010 and 2022.¹¹³ As Roma children are overrepresented among disadvantaged and multiply disadvantaged children, this segregation index is also indicative of the (increasing) degree of segregation between Roma and non-Roma children.

The Hungarian educational system's ability to even out socioeconomic inequalities is among the worst in Europe, most probably as a result of the increasing degree of segregation between disadvantaged and advantaged children. The 2022 PISA survey showed this regarding mathematical skills: 'socio-economically advantaged students scored 93 points more in mathematics than their disadvantaged peers on average across OECD countries. The performance gap related to students' socioeconomic status is widest in Romania and the Slovak Republic, followed by Hungary'.¹¹⁴

The problems regarding the education of Roma pupils are reflected in the annual reports of the Deputy Ombudsman Responsible for the Rights of National Minorities Living in Hungary (hereafter: Minorities Deputy). In her 2025 report on the year 2024,¹¹⁵ the Minorities Deputy described the situation of Roma pupils as follows:

'It is a widely known fact that in Hungary, the system of public education has a very strong role in maintaining societal inequalities. It is often the case that it does not only fail to even out disadvantages brought [from home], but it may amplify them [...]. An additional problem is posed by the consequences of the free choice of educational institutions which enables parents who earn enough and are sufficiently mobile to choose not to let their children study together with Roma children in an integrated manner, and to instead "extract" them into better equipped schools – often run by denominations of private foundations – where the composition of the class is more "suitable" for them.'¹¹⁶

The Minorities Deputy concludes that 'the problem of the educational segregation of Roma children has been an unresolved and constantly deteriorating violation for decades, even though educational experts have been signalling its risks and damaging effects',¹¹⁷ and quotes a number of practices that contribute to the deepening of the degree of segregation from allowing the transfer of non-Roma children to another kindergarten while refusing to allow the same for the Roma children through the segregating impact of the termination of school bus services to the role that denominational schools play in the intensification of segregation.¹¹⁸ With regard to the latter phenomenon, the Minorities Deputy published in November 2025, on the last day of her mandate, a detailed report,¹¹⁹ which was later

¹¹³ Hajdu, T., Hermann, Z., Horn, D., Hőnich, H. and Varga, J. (2024), *A közoktatás indikátorrendszere 2023* (The indicator system of public education 2023), available at: https://kti.krtk.hu/wp-content/uploads/2024/05/Indikatorokotet_2023.pdf, pp. 205–206. The index is 100 when disadvantaged or multiply disadvantaged children are fully separated from their non-disadvantaged peers.

¹¹⁴ OECD (2023), *PISA 2022 Results (Volume I), The State of Learning and Equity in Education*, available at: <https://www.oecd-ilibrary.org/docserver/53f23881-en.pdf?expires=1709899414&id=id&accname=quest&checksum=081CCEBB25BAD69CC1CA64306209CA06>, p. 45.

¹¹⁵ Commissioner for Fundamental Rights (2025), *Beszámoló az alapvető jogok biztosának és felyetteseinek tevékenységéről 2024* (Report on the activities of the Commissioner for Fundamental Rights and his Deputies, 2024), p. 157. The 2025 annual report was not available at the time of writing.

¹¹⁶ Commissioner for Fundamental Rights (2025), *Beszámoló az alapvető jogok biztosának és felyetteseinek tevékenységéről 2024* (Report on the activities of the Commissioner for Fundamental Rights and his Deputies, 2024), p. 157.

¹¹⁷ Commissioner for Fundamental Rights (2025), *Beszámoló az alapvető jogok biztosának és felyetteseinek tevékenységéről 2024* (Report on the activities of the Commissioner for Fundamental Rights and his Deputies, 2024), p. 157.

¹¹⁸ Commissioner for Fundamental Rights (2025), *Beszámoló az alapvető jogok biztosának és felyetteseinek tevékenységéről 2024* (Report on the activities of the Commissioner for Fundamental Rights and his Deputies, 2024), pp. 157–158.

¹¹⁹ Deputy Ombudsman Responsible for the Rights of National Minorities Living in Hungary (2025), *6/2025. számú elvi állásfoglalás a párhuzamosan megjelenő egyházi fenntartású köznevelési intézmények felvételi és működési gyakorlatának, valamint a roma gyerekek iskolai szegregációjának az összefüggéseiről* (Position Paper No. 6/2025 on the relationship between the operational and admission practices of parallel

removed by the new Ombudsman elected to office by the incumbent majority of the parliament in 2025. The main conclusions of the report (which was reuploaded to the internet by the science column of an independent news portal¹²⁰) can be summarised as follows.

In numerous municipalities, there is extreme segregation of Roma children between denominational and state schools: while in many state institutions, Roma students make up 60–90 % of the student body, in denominational schools operating in parallel with them in the same municipality, this percentage is consistently much lower. Examples quoted in the report include Nyírbátor, where the proportion of disadvantaged pupils in both public schools is above 73 %, whereas in the schools operated by the Catholic and Calvinist churches it is below 6 %; and in Karcag, where there are 11 school facilities in total, the proportion of disadvantaged children in the five school facilities run by denominations is under 4 %, whereas in four out of the six facilities run by the state, the proportion is above 75 % (in the remaining two facilities, the percentages are 20 % and 37 %).¹²¹ In Ibrány, which was the primary target of the Minorities Deputy's examination, the director of the school district estimated the proportion of Roma children in the public school to be around 80 %, while in the denominational school (operated by the Calvinist church), it is about 1–2 % (although no accurate statistics exist in this regard).¹²²

According to the Minorities Deputy, the segregation of Roma children can be attributed mainly to the operating and admission practices of church schools. These are not openly discriminatory but keep Roma families away through the imposition of indirect conditions, including the requirement for participation in preparatory programmes and courses, significant additional costs (such as for mandatory swimming instruction, expensive learning materials) and the expectations of the church itself (e.g. participation in religious activities outside regular school hours). The Minorities Deputy also recounted instances when Roma parents had been told unofficially that their child had had no real chance of being admitted, and the report points in general to an absence of a conscious effort to include and integrate children from disadvantaged families.¹²³ Some denominational school managers interviewed in the course of the investigation acknowledged that, owing to strong resistance by the majority population (which is sometimes the driving force behind establishing a school in the first place), church schools often failed to take meaningful measures to compensate for the pre-existing disadvantages facing Roma pupils.¹²⁴ Furthermore, in parallel with the transfer of non-Roma children from state schools to denominational institutions, more qualified and experienced teachers are leaving public schools, which further compromises the level of education in such schools, increases dropout rates and weakens opportunities for the children to move on to secondary education.¹²⁵

The Minorities Deputy identified a number of structural problems in the legal framework that contribute to this situation. These include (but are not limited to) the following. In terms of the National Public Education Act and its bylaws, whereas state schools have smaller catchment areas that are redrawn on an annual basis in order to even out the distribution of disadvantaged children among the different schools, in the case of denominational schools, the whole municipality (in Budapest, the whole district) shall be regarded as their catchment area. This means that while state schools are under the obligation to admit all children within their catchment area – and so there will inevitably be disadvantaged pupils among them – denominational schools are free to select their

operated denominational institutions of public education and the segregation of Roma children in schools), <https://4cdn.hu/kraken/raw/upload/8GnSIEycTk4u.pdf> (hereafter: Position Paper No. 6/2025).

¹²⁰ See <https://qubit.hu/2025/11/19/kozzetesszuk-az-ajbh-oldalarol-eltuntetett-dokumentumokat>; and <https://4cdn.hu/kraken/raw/upload/8GnSIEycTk4u.pdf>.

¹²¹ [Position Paper No. 6/2025, p. 80.](#)

¹²² [Position Paper No. 6/2025, p. 24.](#)

¹²³ [Position Paper No. 6/2025, p. 83–84.](#)

¹²⁴ [Position Paper No. 6/2025, p. 48.](#)

¹²⁵ [Position Paper No. 6/2025, pp. 74–75.](#)

student body from the whole municipality (the only limitation being that at least 25 % of their pupil population must come from the municipality concerned). In addition, the National Public Education Act contains a ban on entrance exams for pupils, whereas denominational schools use their prerogative to determine specific admission criteria to select applicants on the basis of their knowledge and skills. The Minorities Deputy also points out that the examination preceding the issuing of a state licence to denominational schools looks exclusively into whether the financial, material and human resource conditions for operating a school are in place, and fails to take into account how the opening of a church school would impact the composition of the student bodies and the proportions of disadvantaged pupils in the schools of the municipality concerned. The report also calls attention to the fact that the biennial inspection of the lawfulness of the operation of denominational schools does not examine compliance with the requirement for equal treatment.¹²⁶ The Minorities Deputy thus proposes to the State Secretary responsible for public education to consider whether the National Public Education Act and its bylaws could be amended to address these systemic deficiencies.

Finally, the Minorities Deputy puts forward proposals for the amendment of Act XCII of 2023 on Measures against Discrimination in the Field of Public Education.¹²⁷ This law (which comes into effect in 2026) prescribes that the normative support for elementary schools be decreased by 10 % in the case of educational institutions operating in municipalities with more than one elementary school, if the proportion of disadvantaged pupils in the given school is more than 20 percentage points lower than the proportion of such children in the municipality at the beginning of the 2024/25 school year. From the 2026/27 school year, the threshold will be 15 percentage points. Owing to the situation outlined in the Minorities Deputy's report, this provision will primarily concern denominational schools. In the course of the investigation leading up to the drafting of the report, the Minorities Deputy consulted with a number of school managers working for church schools, who complained about the short time period set by the law for increasing the proportion of disadvantaged pupils within the student body. On the basis of their inputs, the Minorities Deputy proposed that (i) a longer grace period be provided to allow the schools concerned time to adapt to the requirements and/or that (ii) the withdrawal of funding support be possibly suspended in the case of schools that are committed to ensuring integration. In addition, the Minorities Deputy recommended that there be targeted support to finance effective integration measures (as the punitive reduction of state support may actually prevent even committed schools from taking effective action).¹²⁸

3.2.8 Access to and supply of goods and services that are available to the public (Article 3(1)(h) Directive 2000/43)

In Hungary, national legislation prohibits discrimination in the access to and the supply of goods and services as formulated in the Racial Equality Directive. This protection extends to all five grounds. As explained in section 3.2.1, gender identity/expression and sex characteristics may be covered in national legislation. Gender expression and sex characteristics can also be brought under the protection offered by the category of 'other characteristics'; however, the same uncertainty arises with regard to these.

Article 5 of the ETA extends the scope of the law to all actors who offer a public contract, make a public offer, provide public services or sell goods to the public.

In addition, discrimination with regard to access to goods and services is regulated by Article 30 of the ETA:

¹²⁶ [Position Paper No. 6/2025](#), pp. 84–85.

¹²⁷ Act XCII of 2023 on Measures against Discrimination in the Field of Public Education (2023. évi XCII. törvény a köznevelés területén alkalmazandó diszkriminációellenes intézkedésekről), 21 December 2023, <https://net.jogtar.hu/jogszabaly?docid=a2300092.tv>.

¹²⁸ [Position Paper No. 6/2025](#), p. 88.

‘(1) It is considered a particular violation of the principle of equal treatment if, at premises open to customers, particularly in catering, commercial, cultural and entertainment establishments, and based on a characteristic defined in Article 8, a) the provision of services or sale of goods is denied or neglected; b) the services provided and goods sold are not of the same quality as those normally available at the particular premises; c) a notice or sign is placed implying that a certain individual or individuals are excluded from the provision of services or sale of goods at the premises.’

Paragraph (2) and Article 30/A contain specific exemption clauses for access to goods and services:

‘Article 30(2) Entry into premises established for a group defined by characteristics listed in Article 8 for the purposes of preserving traditions or maintaining cultural and self-identity and open to the immediate public may be limited or subject to membership or specific conditions.

Article 30/A(1) In relation to insurance services and services based on the insurance principle – with the exception of group life, casualty and health insurances and unless the pertaining laws stipulate otherwise – differentiation based on gender infringes the principle of equal treatment if the service provider’s measure results in gender-based direct or indirect differentiation in relation to the fees to be paid by or the services provided to the concerned individuals.’

The list in Article 30(1) is not exhaustive, so other forms of discrimination related to access to goods and services are also covered by the ETA.

Failure to adapt goods or a service to meet the needs of a person with a disability is regarded as a form of discrimination. To substantiate this, a case can be quoted in which the complainant launched a proceeding before the Ombudsman because she could not get on the local bus company’s bus, as it stopped too far from the pavement, the ramp did not work, and the driver refused to provide the complainant with assistance. The parties reached a friendly settlement.¹²⁹

a) Distinction between goods and services available publicly or privately

In Hungary, national law distinguishes between goods and services available to the public (e.g. in shops, restaurants and banks) and those only available privately (e.g. those restricted to members of a private association).

The reason for this is that private entities fall under the personal scope of the ETA only if they offer a public contract or make a public offer. If, however, a private association makes a public offer or advertises the possibility of joining the association with the prospect of obtaining the given service, then it will also fall under the ETA’s scope and is bound by the requirement of equal treatment.

3.2.9 Housing (Article 3(1)(h) Directive 2000/43)

In Hungary, national legislation prohibits discrimination in the area of housing as formulated in the Racial Equality Directive. This protection extends to all five grounds. As explained above (see footnote 98), gender identity/expression and sex characteristics may be covered in national legislation under the notion of ‘other characteristics’. Gender expression and sex characteristics can also be brought under the protection offered by the category of ‘other characteristics’; however, the same uncertainty arises with regard to these.

¹²⁹ Ombudsman, [EBF-AJBH-106/2022](#), March 2022.

Under Article 4, public actors who have a role in housing (including municipalities) fall under the law's scope. Article 5 of the ETA extends the law's personal scope to all persons making a public offer, including an offer to rent out a private apartment.

Discrimination in housing is forbidden by Article 26 of the ETA, which reads as follows:

'(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) affected by direct or indirect discrimination in respect of the granting of housing subsidies, benefits or 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 issuing of occupancy and other building permits by the relevant authorities shall not be denied, or tied to any conditions, based directly or indirectly on characteristics defined in Article 8.

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

Thus, housing discrimination is dealt with in relation to state or municipal housing. However, housing provided by private actors (e.g. the renting out of apartments) will also fall under the scope of the ETA, provided that the given private actor advertises the available housing publicly.

In this case, the act will fall under the ETA's scope in accordance with Article 5, which claims that private persons shall abide by the requirement of equal treatment if they offer a public contract or make a public offer (see above, under Section 3.1.2).

In a case taken by the Equal Treatment Authority, a Roma man filed a complaint because when he was looking for an apartment to rent, the real estate agency provided him with a list of apartments meeting his demands concerning size and location, but some of the apartments in the list had a 'No Roma' comment attached to them. The Authority concluded that discrimination had taken place.¹³⁰

a) Trends and patterns regarding housing segregation for Roma

In Hungary, there are trends and patterns in housing segregation and discrimination against Roma people.

The intensity of segregation in housing is acknowledged in Hungary's national strategy for social inclusion adopted for the period 2021–2030 (Hungarian National Strategy for Social Inclusion 2030, hereafter, National Strategy), which states that while the Roma community constitutes about 6-7 % of Hungary's total population, this proportion exceeds 14 % in three counties and 25 % in seven districts, and the Roma population is a majority in 279 villages. Residents of these segregated areas live in substandard conditions; the disadvantages facing children growing up here are not offset by the educational system but instead are perpetuated by it.¹³¹ There are also segregated neighbourhoods within larger settlements (towns, cities); their number is estimated to be 1 384 within 709 settlements.¹³²

¹³⁰ Equal Treatment Authority, Decision No. EBH/70/2018, 9 January 2018.

¹³¹ Hungarian Government (2021), *Magyar Nemzeti Társadalmi Felzárkózási Stratégia 2030*, (Hungarian National Strategy for Social Inclusion 2030), <https://ec.europa.eu/info/sites/default/files/mntfs2030.pdf>, p. 108.

¹³² Hungarian Government (2021), *Magyar Nemzeti Társadalmi Felzárkózási Stratégia 2030*, (Hungarian National Strategy for Social Inclusion 2030), p. 114. See also Advisory Committee on the Framework Convention for the Protection of National Minorities (2026), *Sixth Opinion on Hungary*, adopted on 15 October 2025, <https://rm.coe.int/acfc-op-vi-2025-4-6th-acfc-opinion-on-hungary-en/48802ac9eb>, pp. 41-

In her 2024 annual report (published in 2025), the Minorities Deputy points out that the increase in the number of housing-related complaints continued in 2024, with most of those complaints having been filed by Roma persons in disadvantaged situations. According to the Minorities Deputy, the complainants claimed that they had experienced ethnic discrimination in relation to social allowances, housing support and other public services. While discrimination could not be established in any of the individual cases in 2024, the pattern suggests the existence of structural discrimination, i.e. 'procedural patterns raising the suspicion of discrimination, and strongly linked to the traceable biases [...] that can be identified in the organisational culture of domestic authorities and institutions'. The Minorities Deputy also mentions a high number of complaints of discrimination faced by Roma lease-seekers with stable employment and income from private landlords.¹³³

The most concerning development with regard to housing discrimination in 2025 was the adoption of Act XLVIII of 2025 on the Protection of Local Identity,¹³⁴ which entered into force on 1 July 2025. The law enables municipal communities to 'exercise self-defence aiming to protect and preserve the community's societal structure, way of life, traditions and customs as well as the settlement's characteristics' and authorises them 'to determine who may move into the municipality and under what conditions' with a view to 'preventing the undesired increase of the population' and 'taking action against the undesired directions of societal developments'. The law authorises the municipal council to adopt local decrees in order to achieve these objectives. The decree may prescribe that a right of first refusal applies to local real estate.¹³⁵ It may also prescribe certain conditions for those wishing to register in the municipality, such as meeting some preliminary criteria or making some undertaking for the municipality. The municipal council may introduce a settlement tax on those who wish to buy property or register a residential address in the municipality. Already when the law was being debated in parliament, Roma rights activists and experts, as well as human rights NGOs, warned that municipalities may use the law to keep Roma people and other 'unwanted' groups out. On 3 November 2025, the Minorities Deputy published a so-called Public Warning regarding the practical application of the law, which fully confirms these concerns.¹³⁶

As at the Public Warning's cut-off date, 111 municipalities (out of approximately 3 150 in Hungary) had adopted local decrees on the basis of the law. As the Public Warning concludes, 'the often arbitrary and stigmatising conditions set out by the municipal decrees violate human dignity and the requirement of legal certainty, limit the freedom of movement and property. These rules are in many cases suitable to lead to indirect

42, which found that, despite some progress in improving access to adequate housing, Roma continue to live predominantly in Roma-only settlements or segregated urban areas. Although the proportion of Roma living in housing deprivation has decreased in recent years, inadequate living conditions continue to persist and overcrowding remains a chronic problem. Roma interlocutors consulted by the Advisory Committee complained that 'housing policies often focus on improving living conditions within segregated areas, rather than adopting a holistic approach that addresses segregation itself through targeted measures to eliminate it'. In conclusion, the Advisory Committee expressed concerns that, despite its earlier recommendations, 'holistic and sustainable measures to improve Roma access to housing are still lacking'.

¹³³ Commissioner for Fundamental Rights (2025), [Beszámoló az alapvető jogok biztosának és felyetteseinek tevékenységéről 2024](#) (Report on the activities of the Commissioner for Fundamental Rights and his Deputies, 2024), pp. 162–163.

¹³⁴ Act XLVIII on the Protection of Local Identity (2025. évi XLVIII. törvény a helyi önkormányzatok védelméről), 16 June 2025, <https://net.jogtar.hu/jogszabaly?docid=A2500048.TV>.

¹³⁵ According to Article 8(1) of the Act XLVIII of 2025 on the Protection of Local Identity, the right of first refusal may be granted in the following order: a) to the local government, or a business entity in which the local government holds a majority stake and which has been designated to exercise the right of first refusal, b) to the owner of a property adjacent to the real estate in question, c) to a person who owns real estate in the municipality where the property is located.

¹³⁶ Deputy Ombudsman Responsible for the Rights of National Minorities Living in Hungary (2025), *A Magyarországon élő nemzetiségek jogainak védelmét ellátó biztoshelyettes FIGYELEMFELHÍVÁSA a helyi önkormányzatok védelméről szóló 2025. évi XLVIII. törvény gyakorlati alkalmazásával összefüggésben* (Public Warning of the Deputy Ombudsman Responsible for the Rights of National Minorities Living in Hungary regarding the practical application of Act XLVIII on the Protection of Local Identity), <https://4cdn.hu/kraken/raw/upload/8GnSJjF4AY0.pdf>.

discrimination against the members of Roma communities.’ The Public Warning contains examples of especially problematic provisions in the municipal decrees.

In some municipalities, before deciding on exercising the right of first refusal or allowing registration in the municipality, the municipal council may personally hold a hearing for the prospective buyer/resident and may decide on the matter in a fully discretionary and potentially arbitrary manner, without adhering to any previously determined criteria.¹³⁷ In some municipalities, only those persons who are legally employed or have been legally employed for a longer period of time within a certain period preceding the request may register. Similarly, in some municipalities a person is not allowed to register unless they can prove that they have a regular income equivalent to the level of the mandatory minimum wage. In several municipalities, graduation from secondary education (high school or secondary vocational school) is the precondition for registering. Certain municipalities stipulate command of the Hungarian language as a precondition for registering. Several municipalities have also availed themselves of the possibility of introducing a settlement tax. For instance, in Kallósd (in western Hungary), those wishing to register in the municipality must pay a tax of HUF 300 000 (EUR 830).

In the author’s view, it is immediately obvious from the available statistics concerning the socioeconomic status of the Roma, as well as their situation in education or the labour market, that these conditions amount to indirect discrimination based on ethnic origin. As the National Strategy¹³⁸ states: ‘The proportion of persons with no higher than elementary education continues to be outstandingly high among the Roma, the proportion of [Roma persons] participating in secondary education continues to be low and continues to be decreasing. [...] The majority of disadvantaged Roma youth drops out of the first or second year of vocational education.’¹³⁹ According to the National Strategy, 77.4 % of Roma between the ages of 15 and 74 have not completed higher than elementary education, whereas the same ratio among non-Roma is just 19.5 %.¹⁴⁰ This means that Roma people are statistically less likely to meet the local decrees’ requirements regarding completion of secondary education.

As far as the labour market is concerned, according to the National Strategy, ‘the unemployment rate continues to be high among the Roma, and their situation is much worse with regard to all other employment indicators too’.¹⁴¹ By way of example, the National Strategy recalls that, in 2019, the employment rate of Roma persons between the ages of 15 and 64 was 45.5 % (with 16 % employed in public work programmes), compared with 70.8 % of the non-Roma in the same age category.¹⁴² In addition, the proportion of those who work in the black or grey economy is very high among marginalised groups,¹⁴³ including the Roma, so there is, again, a statistically significantly higher chance that a Roma person will not be able to meet the local decrees’ requirements concerning properly registered employment and income.

Closely linked to the disadvantages in the fields of education and employment, the socioeconomic situation of the Roma is also much worse than that of the non-Roma population. As the National Strategy states, ‘in the North-Eastern and South-Western parts of Hungary, in several municipalities that are falling or have already completely fallen behind, the financial underdevelopment and the lack of skilled labour go hand in hand with

¹³⁷ In principle, there may be a judicial review of a decision based on a personal hearing, but discretionary decisions are difficult to challenge in the Hungarian legal system, and those potentially concerned by such decisions are likely to belong to vulnerable groups, so they may face significant (financial and other) obstacles in resorting to this form of remedy.

¹³⁸ Government of Hungary (2021), *Magyar Nemzeti Társadalmi Felzárkózási Stratégia 2030* (Hungarian National Strategy for Social Inclusion 2030), <https://kormany.hu/application/documents/dcb19747-23dd-41b2-a16b-8f8bfbf20227/download>.

¹³⁹ *Hungarian National Strategy for Social Inclusion 2030*, p. 67.

¹⁴⁰ *Hungarian National Strategy for Social Inclusion 2030*, p. 100.

¹⁴¹ *Hungarian National Strategy for Social Inclusion 2030*, p. 112.

¹⁴² *Hungarian National Strategy for Social Inclusion 2030*, pp. 97–98.

¹⁴³ *Hungarian National Strategy for Social Inclusion 2030*, p. 104 and pp. 110–111.

the concentration of societal problems [...]. The Roma population is especially burdened with these disadvantages.¹⁴⁴

This means that decrees requiring secondary education, a longer period of employment or the payment of a settlement tax as preconditions for registering an address will inevitably indirectly discriminate against the Roma minority. The situation is exacerbated by the fact that, as pointed out by the Minorities Deputy, several municipalities adopt similar decrees in a 'cluster' manner, effectively excluding Roma people from a larger area. An example is provided by the city of Heves, around which seven neighbouring municipalities adopted decrees protecting local identity. Thousands of Roma people live in Heves in one of the largest segregates of the country. According to the Minorities Deputy, 'the number of homeless persons is increasing here [...]. Up until now, such persons could attempt to move into neighbouring municipalities; however, due to the decrees, they will not be able to do so from now on.'

Based on the above, the author is of the view that the decrees and the underlying law seem to be in violation of the following EU norms and principles:

- freedom of settlement (violated, for example, by the decrees requiring a command of the Hungarian language as a precondition for registering);
- Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin;
- Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 (CPR), owing to the legislation's clearly negative impact on promoting the social inclusion of marginalised groups, such as the Roma, including the elimination of segregation and the mainstreaming of inclusion at the regional and local level.

On 22 December 2025, Amnesty International Hungary submitted a formal complaint to the European Commission regarding the local identity law's non-compliance with the EU acquis.¹⁴⁵ Domestic proceedings have also been launched by Government Offices, which are vested with the task of overseeing the lawfulness of the operation of municipalities. In terms of Article 134 of Act CLXXXIX of 2011 on Hungary's Municipalities, the Government Office calls on the municipal council to terminate any violation of the law within a deadline of at least 30 days. If the violation is caused by an unconstitutional municipal decree and the municipal council does not comply with the call, the Government Office initiates that the minister responsible for municipalities request a review of the municipal decree by the Constitutional Court. According to news reports (published after the cut-off date of this report, in March 2026), in Nógrád County the competent Government Office found all local decrees (but one) to be unlawful,¹⁴⁶ while in April 2026, the town of Sátoraljaújhely (a municipality in Borsod-Abaúj-Zemplén County) withdrew its decree after the competent Government Office warned that it may be discriminatory.¹⁴⁷

¹⁴⁴ Hungarian National Strategy for Social Inclusion 2030v, p. 115.

¹⁴⁵ See https://www.amnesty.hu/wp-content/uploads/2026/01/251222_European-Commission_complaint_local-identity-law_Hungary.pdf.

¹⁴⁶ See <https://telex.hu/belfold/2026/03/18/onazonossagi-torveny-nograd-megyei-kormanyhivatal-tasz>.

¹⁴⁷ See <https://444.hu/2026/04/16/a-fideszes-vezetesu-satoraljauihelyen-visszavonjak-az-onazonossagi-rendeletet>.

4.2 Employers with an ethos based on religion or belief (Article 4(2) Directive 2000/78)

In Hungary, national law provides for an exception for employers with an ethos based on religion or belief.

The above-quoted Article 22 of the ETA provides an exception for an ethos based on religion or belief. Article 22(1)(b) claims that the principle of equal treatment is not violated if the differentiation arises directly from a religious or other ideological conviction fundamentally determining the nature of the organisation, and it is proportionate and justified by the nature of the employment activity or the conditions of its pursuit.

Furthermore, Article 20(3) of the Act on Churches states that 'denominational legal personalities or religious associations conduct their public interest activities [educational, healthcare, charity, social, cultural, sports, youth-related, child protection activities] directly or through their institutions in accordance with their religious convictions, and therefore, specific requirements may be determined concerning recruitment and the establishment, maintenance and termination of the legal relationship of employment, provided that these requirements can be regarded as justified by the nature or substance of the given religious ethos, they are necessary for preserving and realising the ethos, and they are proportionate'.

It is doubtful whether these provisions are fully in line with Directive 2000/78, as Article 22 of the ETA does not seem to incorporate the Directive's notion of 'legitimacy'. Although it is likely that, in the course of applying the law, courts and authorities would see this as an implied requirement of any distinction based on religious ethos, there is no case law on this issue yet.

Furthermore, according to the Directive, a differentiation based on the religious ethos of an organisation may only be based on the religion of the person subjected to the differentiation, and not on any other characteristics (e.g. sexual orientation), whereas the Hungarian provisions do not impose this restriction on the application of these exempting clauses.

In the case of denominational schools, additional legal provisions cause further problems. Article 38 of Act LII of 2023 on the new career path of teachers¹⁴⁹ states that if the educational institution is maintained by a denomination, it may in the course of recruiting teachers and other employees attach weight to considerations related to religion or belief, and define them as criteria of recruitment, and it may – in its rules of operation and house rules and in line with the teachings of the maintaining denomination – prescribe regulations concerning appearance and behaviour, rights and obligations and religious activities. Disciplinary proceedings may be launched against the teacher for breaching these latter obligations. Furthermore, under Article 32(1) of the National Public Education Act, educational institutions maintained by denominations may restrict or ban teachers' general right to carry out their educational work in accordance with their beliefs and values (without imposing these beliefs and values on the child or pupil).

In the author's view, these provisions – especially in light of CJEU case law, such as the *Egenberger* judgment¹⁵⁰ – do not comply with Article 4 of Directive 2000/78 for a number of reasons. First, according to the Directive, Member States may maintain national legislation in force at the date of adoption of the Directive or provide for future legislation incorporating national practices existing at the date of adoption of the Directive. At the

¹⁴⁹ Act LII of 2023 on the new career path of teachers (2023. évi LII. törvény a pedagógusok új életpályájáról), 6 July 2023, <https://mkogy.jogtar.hu/jogszabaly?docid=A2300052.TV>.

¹⁵⁰ Court of Justice of the European Union, Judgment of 17 April 2018, *Vera Egenberger v Evangelisches Werk für Diakonie und Entwicklung eV*, C-414/16, ECLI:EU:C:2018:257.

time of Hungary's accession to the Union, Act LXIX of 1993 on public education¹⁵¹ (the previous act on public education, parts of which were still in force on 1 September 2013) contained no provisions authorising denominational educational institutions to set considerations related to religion or belief as recruitment criteria or prescribe regulations concerning appearance, behaviour or religious activities.

Secondly, the provisions outlined above do not contain any reference to the genuineness, legitimacy and justified nature of the differentiation – they are absolute, unqualified and unconditional. Therefore, they are not in line with the Directive's requirement that a difference of treatment shall not constitute discrimination only if 'by reason of the nature of these activities or of the context in which they are carried out, a person's religion or belief constitute a genuine, legitimate and justified occupational requirement'.

It remains to be seen how the relation between Article 38(a) of Act LII of 2023 on the new career path of teachers and Article 22(1)(b) of the ETA will be interpreted, as the interpretation will have a decisive impact on its conformity with Article 4(2) of the Directive. Article 38(a) of Act LII of 2023 on the new career path of teachers does not specify what types of special conditions may be set, and how the selection criteria shall be formulated. It can therefore be interpreted in line with Article 22(1)(b) of the ETA and regarded as a declarative rule simply reinforcing those existing special rights of organisations based on a religious ethos that were put in place by the ETA. The same interpretation would follow from the principle of indirect effect of the EU *acquis*, i.e. domestic authorities' obligation to interpret domestic laws in a way that is compatible with the *acquis*.

However, another interpretation is also possible. One can argue that there would have been no point in re-declaring an existing right, and therefore the legislature's intention behind the adoption of Article 38(a) must have been to make it possible for church institutions to set conditions going beyond those that were already permitted under the ETA. In this case, there would be a conflict between the ETA and the new provision. Based on the principle of *lex posterior derogat legi priori*, this conflict could be resolved in favour of Article 38(a), since this is the norm that was adopted later. This interpretation opens the door for employment-related differentiation that goes far beyond what is allowed by the Directive.

Looking at the legislative reasons attached to Article 32 of the National Public Education Act (where the provisions of Article 38(a) of Act LII of 2023 on the new career path of teachers were originally placed, before they were moved to Act LII of 2023 on the new rules on the career path of teachers), it seems that the legislature's intention was to create an exception to the GOR provision of the ETA, which takes precedence over Article 22 of the ETA. The legislative reasons read as follows:

'The ethos of educational institutions maintained by a denomination is necessarily determined by the religious principles of the maintaining denomination, therefore further special and exceptional provisions pertain to public educational institutions maintained by churches. Some of these provide extra rights to the maintainer and at the same time restrict the autonomy of the staff, and concern the rights and obligations of the parents and children. Since the law declares the [parents' and children's] right to freely choose the educational institution to attend, these restrictions are not detrimental to children and parents. The provisions influencing the rights of the staff are necessary in order to guarantee the ethos based on religion or belief, at the same time the law wishes to guarantee professional freedom and autonomy of teachers.'

¹⁵¹ Act LXIX of 1993 on public education (1993. évi LXXIX. törvény a közoktatásról), 3 August 1993, <https://mkogy.jogtar.hu/jogszabaly?docid=99300079.TV>.

A case taken by the Hungarian Helsinki Committee demonstrates that some schools themselves share this interpretation. In this case, a denominational school dismissed a boarding school teacher who had been working for the institution for 10 years (and whose performance was rated excellent by auditors commissioned by the maintaining church) as soon as Article 32 of the National Public Education Act (the predecessor of Article 38(a) of Act LII of 2023 on the new career path of teachers) entered into force, on the basis that his world view was not in line with the school's religious values. If the school management had thought that this was possible under Article 22 of the ETA, it could have dismissed him before that. However, in all probability, the school was of the view that under the ETA it would have been difficult for it to substantiate that religiosity was a genuine and determining occupational requirement, as the teacher always saw to it that the students abided by the religious requirements and attended the school's religious events. In the labour lawsuit, no judicial decision was reached, because the school finally acknowledged the violation and the parties concluded a settlement.

- Conflicts between rights of organisations with an ethos based on religion or belief and other rights to non-discrimination

In Hungary, there are specific provisions and case law relating to conflicts between the rights of organisations with an ethos based on religion or belief and other rights to non-discrimination in the context of employment.

Article 6 of the ETA stipulates that a denominational legal person's legal relationships directly related to the denomination's religious activity are excluded from the scope of the law. Therefore, churches enjoy complete freedom with regard to the employment of priests and pastors and other persons with directly religious tasks.

Case law also shows that religious freedom can be an exempting factor in cases not expressly removed from the ETA's scope. The *Károli* case concerned the conflict between the rights of organisations with an ethos based on religion or belief and other rights to non-discrimination. After dismissing a theology student who had confessed his homosexuality to one of his professors, the faculty council of the Károli Gáspár Calvinist University's Faculty of Theology published a general declaration claiming that 'the church may not approve of [...] the education, recruitment and employment of pastors and teachers of religion who conduct or promote a homosexual way of life'.

In this case (brought as an *actio popularis* claim by an LGBTIQ NGO), the Supreme Court (predecessor of the Kúria) took the view¹⁵² that the denominational university was exempted from the obligation to abide by the requirement of equal treatment by virtue of the general exempting rule of the ETA [Article 7(2)], according to which an action based on a protected characteristic 'shall not be taken to violate the requirement of equal treatment if it is found by objective consideration to have a reasonable ground directly related to the relevant legal relation'. In the Supreme Court's view, in the case of a denominational university, it may objectively be considered to be reasonable to exclude homosexuals from theological education, taking into consideration the fact that later on they may become pastors.

4.3 Armed forces and other specific occupations (Article 3(4) and Recitals 18 and 19, Directive 2000/78)

In Hungary, national legislation does not provide for a general exception for the armed forces in relation to age or disability discrimination (Article 3(4), Directive 2000/78). The statutes regulating the status of armed forces contain provisions on age limits and physical suitability.

¹⁵² Supreme Court, Pfv.IV.20.678/2005/5, 8 June 2005, http://epa.oszk.hu/02300/02334/00020/pdf/EPA02334_Fundamentum_2005_03_100-104.pdf.

Article 5 of the Act XLII of 2015 on the service relationship of professional members of law enforcement organisations¹⁵³ (the Law Enforcement Organisations Act), which refers to regulating organisations, such as the police, prison services, customs and excise guards, reads as follows:

- ‘(1) With regard to the service relationship, the requirement of equal treatment shall be met.
(2) The law enforcement organisation guarantees without discrimination the advancement of its professional member, based exclusively on his or her professional qualities, training, experience, performance and service time.’

Article 3 of Government Decree 137/2024 on the status of military personnel¹⁵⁴ (the Armed Forces Decree) claims that the requirement of equal treatment shall be complied with

However, this does not exclude the possibility of differential treatment based on age and disability (or rather: physical features) in the context of armed forces and other armed organisations. The limitations are set out by the relevant statutes. Under Article 33 of the Law Enforcement Organisations Act, individuals who are older than 18 and at least 10 years younger than the upper age limit pertaining to the organisation and are suitable for service from a medical, psychological and physical point of view may enter service. Under Article 7 of the Armed Forces Decree (regulating the army), individuals who are older than 18 and are suitable for service may enter service.

The detailed regulations are set out by lower ranking norms, such as Decree 9/2024. of the Minister for Defence,¹⁵⁵ which contains a very detailed description of what suitability from a medical, psychological and physical point of view means.

The Equal Treatment Authority had a related case. A woman filed a complaint because she was refused admission to the Police College due to her height. The college used the exemption that it was obliged by the Decree (i.e. a statutory norm) to reject her application, since, under its terms, a woman who is less than 162 centimetres tall may not become a police officer (for men, the minimum height was 168 centimetres). Consequently, the Authority had to reject the complaint, but indicated to the Ministry of Justice and Law Enforcement that a revision of the Decree was necessary. (If a law, such as an act of Parliament or a ministerial decree is discriminatory, only the Constitutional Court is entitled to declare it null and void. The equality body only has the right to initiate the amendment with the responsible entity.)

4.4 Nationality discrimination (Article 3(2))

a) Discrimination on the ground of nationality

In Hungary, national law does not include exceptions relating to difference of treatment based on nationality.

In Hungary, nationality (as in citizenship) is not explicitly mentioned as a protected ground in national anti-discrimination law.

Although the English text of Article 8(d) of the ETA mentions nationality (*nemzetiség*) among protected grounds, this expression does not refer to citizenship but is used to refer

¹⁵³ Act XLII of 2015 on the service relationship of professional members of law enforcement organisations (2015. évi XLII. törvény a rendvédelmi feladatokat ellátó szervek hivatásos állományának szolgálati jogviszonyáról), 24 April 2015, <http://mkogy.jogtar.hu/?page=show&docid=a1500042.TV>.

¹⁵⁴ Government Decree 137/2024 on the status of military personnel (137/2024. (VI. 28.) Korm. rendelet a honvédek jogállásáról), 28 June 2024, <https://net.jogtar.hu/jogszabaly?docid=a2400137.kor>.

¹⁵⁵ Decree 9/2024. of the Minister of Defence (9/2024. (VI. 28.) HM rendelet a hivatásos és a szerződéses katonai szolgálatra való egészségi, pszichikai és fizikai alkalmassági követelmények és ellenőrzésük keretszabályairól), 28 June 2024, <https://net.jogtar.hu/jogszabaly?docid=a2400009.hm>.

to affiliation with a national minority. However, differentiation based on nationality (as in citizenship) is not excluded from the scope of the ETA: in fact, it is one of the 'other characteristics' to be protected by the ETA, as supported by the Equal Treatment Authority's case law.

In the absence of recent jurisprudence, a case before the Equal Treatment Authority can be quoted, in which a Polish citizen who had lived and worked in Hungary for years and spoke excellent Hungarian requested a credit card from his bank, but his request was rejected. The bank argued that the reason for the policy was that it was not able to check the foreign credit history of non-Hungarian citizens, and also that the recovery of potential unpaid debts was much more cumbersome abroad. Ultimately, the parties reached a friendly settlement, and the bank undertook to amend its credit card policy to allow foreigners to have credit cards. The Authority approved of the settlement.¹⁵⁶

b) Relationship between nationality and 'racial or ethnic origin'

Due to the fact that members of the ethnic minority that is most often exposed to discrimination (i.e. Roma) are Hungarian citizens, there is no overlap in the case law between discrimination based on nationality (in the sense of citizenship) and ethnicity.

4.5 Health and safety at work (Article 7(2) Directive 2000/78)

In Hungary, there are exceptions in relation to disability and health and safety at work (Article 7(2), Directive 2000/78). However, these are not expressly stated in anti-discrimination law.

Decree 33/1998 of the Ministry of Welfare on the medical examination and assessment of labour, professional and personal hygienic suitability¹⁵⁷ (the Labour Suitability Decree) covers job- and profession-related suitability tests (Articles 1(a) and (b)). Article 1(a) serves to test whether the applicant can cope with the risks and effects resulting from the activity they need to perform as part of the job. Article 1(b) seems to be of an even more strictly medical nature, testing suitability prior to (re)training.

Some relevant provisions can be found in the Labour Code. Article 51(3) prescribes that employees may only be employed for work that may not entail disadvantageous effects for them, taking into consideration their physical features or maturity or health status. Taking into account the changes in the health status of the employee, the employer shall adjust the working conditions and the working hours of the employee concerned. Under Paragraph (4) of the same Article, the employer may (or, in certain cases determined by law, shall) provide free labour suitability examinations before employment commences and at regular intervals subsequently.

The Labour Code here refers to examinations conducted under Article 10(1) of the Labour Suitability Decree: 'In the course of examining and assessing labour suitability it shall be taken into consideration that women (with special regard to women of child-bearing age, pregnant women (...), women who have recently given birth, women who are breastfeeding and women giving milk) are not or only conditionally suitable for work entailing health risks or dangerous encumbrances as enumerated under Annex 8.'

Under Article 10/A(1) 'the encumbrances excluding or only conditionally allowing the employment of minors are listed in Annex 8'. Article 10/B(1) prescribes that 'in the course of examining and assessing labour suitability it shall be taken into consideration that older

¹⁵⁶ Equal Treatment Authority, [Decision No. EBH/74/2017](#), 27 March 2017.

¹⁵⁷ Decree 33/1998 of the Ministry of Welfare on the medical examination and assessment of labour, professional and personal hygienic suitability (33/1998. (VI. 24.) NM rendelet a munkaköri, szakmai, illetve személyi higiénés alkalmasság orvosi vizsgálatáról és véleményezéséről), 24 June 1998, http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=99800033.NM.

employees are not or only conditionally suitable for work entailing health risks or dangerous encumbrances enumerated under Annex 8'. Annex 8 of the Decree contains a very detailed list of encumbrances that are potentially harmful to the health of vulnerable groups and therefore require prohibition. Examples include microwave radiation, overpressure, exposure to highly poisonous, carcinogenic materials and materials damaging reproductive capacity. Annexes 9 and 9/A list the activities for which an individual risk assessment is required when deciding on the suitability of women and young employees.

Definitions of terms such as ageing and vulnerable groups (Article 1(n) and (o) of the Labour Suitability Decree) suggest that explicitly formulated health and safety considerations are restricted to (young and old) age and motherhood. However, this does not mean that disability, health and safety considerations may not be invoked as a justification for differentiation on the basis of 'general suitability' (under Article 1(a) of the Decree, a job suitability test is aimed at establishing whether a person is capable of enduring the encumbrance imposed on him or her by pursuing a certain activity at a particular workplace in a particular job) or Article 22(1)(a) of the ETA (genuine and occupational requirement provision).

4.6 Exceptions related to discrimination on the ground of age (Article 6 Directive 2000/78)

4.6.1 Direct discrimination

a) Justification of direct discrimination on the ground of age

In Hungary, national law does not allow for *specific* justifications for direct discrimination on the ground of age, but, depending on judicial interpretation, age can be a ground for lawful differentiation on the basis of the general (i.e. not ground-specific) exempting clauses of the ETA, and there are certain sectors (e.g. the armed forces), where the pertaining legislation contains minimum and maximum age requirements.

As explained in section 2.4, the ETA permits objective justification for direct discrimination in general with regard to all grounds (except for racial or ethnic origin), so it is possible that in a particular individual case when the respondent invokes the general exempting clause (Article 7(2)) in relation to age-based differentiation, the court or the Ombudsman will accept it as justified. This possibility is not specific to age, however, and the same may happen when the ground for differentiation is sexual orientation, religion or disability. In this regard, therefore, this exempting clause does not rely on Article 6 of Directive 2000/78 (as examined by the CJEU in the Georgiev case¹⁵⁸), but is a general one, which can be applied to age-based differentiation.

This is because, unlike the directives, the ETA attaches a general exemption clause to both indirect and direct discrimination and not only in relation to age as in Article 6 of Directive 2000/78, but in relation to all grounds with the exception of racial or ethnic origin.

As outlined above, Article 7(2) of the ETA states:

'Unless this law stipulates otherwise, an action, conduct, omission, requirement, order or practice (hereinafter: action) shall not be deemed to violate the requirement of equal treatment if a) it restricts the aggrieved party's fundamental right for the sake of the enforcement of another fundamental right, provided that the restriction is absolutely necessary, suitable for achieving the aim and proportionate with the aim, or b) in cases not falling under the scope of a), it is

¹⁵⁸ Judgment of 18 November 2010, *Vasil Ivanov Georgiev v Tehnicheski universitet – Sofia, filial Plovdiv*, Joined Cases C-250/09 and C-268/09, ECLI:EU:C:2010:699.

found by objective consideration to have a reasonable ground directly related to the relevant legal relation’.

This means that the level of protection against discrimination available for a person depends on the type of right the discrimination concerns. For instance, if a person is subjected to differentiation with respect to education, the differentiating act will be measured using the stricter test (legitimate aim, necessity, suitability, proportionality), as the right to education is a fundamental right. If, however, a right or obligation that does not fall into the category of fundamental rights is concerned (e.g. access to a service), the objective reasonability of the measure will be sufficient to exempt the person making the differentiation.

As explained in section 4.1, Article 22(1)(a) (the Hungarian GOR clause) is interpreted by courts as covering all aspects of employment and is seen as *lex specialis* compared to Article 7(2) in that field. Therefore, the general exempting clause cannot be applied to labour cases, and age-based differentiation in the area of employment will be decided on the basis of the test of Article 22(1)(a). This test contains the elements of a legitimate aim and proportionality (which may be interpreted to cover both appropriateness and necessity). Therefore, any differentiation regarding any aspect of employment based on age will only be acceptable if it has a legitimate aim closely linked to the work and is a proportionate means to achieve that aim. In the view of the author, this satisfies the requirements of Article 6 of the Directive.

b) Permitted differences of treatment based on age

In Hungary, national law permits differences of treatment based on age for any activities within the material scope of Directive 2000/78.

Under Article 294 of the Labour Code, a ‘young employee’ is an employee who is below 18 years of age. The Labour Code contains numerous provisions aimed at protecting young employees. These are mostly related to employment and working conditions. For instance, young employees may not be employed for night shifts (Article 114), they are entitled to five extra days off per year (Article 119), and so on.

Apart from these provisions, age-related differences are mostly in place with regard to dismissals and the promotion of access to employment. For these, see the relevant parts of Chapter 4.

c) Fixing of ages for admission to occupational pension schemes

In Hungary, national law does not allow occupational pension schemes to fix ages for admission to the scheme, availing of the possibility provided for by Article 6(2).

Article 5(2) of Act LXXXII of 1997 on private pensions and private pension funds¹⁵⁹ (Private Pensions Act) expressly prescribes that private pension funds (including ones established by the employer) must not discriminate between their members on the basis of religion, racial or ethnic origin, political conviction, sex or age.

Before January 2011, membership of a private pension fund was either compulsory (for young people starting out in a career and establishing an employment relationship for the first time, provided they were younger than 35 years of age) or voluntary (in January 2011, even those individuals for whom membership had been compulsory were allowed to leave private pension funds, and from this date there has been no compulsory membership). In either case, the pension fund itself may not fix an age for admission.

¹⁵⁹ Act LXXXII of 1997 on private pensions and private pension funds (1997. évi LXXXII. törvény a magánnyugdíjról és a magánnyugdíjpénztárakról), 25 July 1997, http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=99700082.TV.

4.6.2 Special conditions for younger or older workers

In Hungary, there are special conditions set by law for older and younger workers in order to promote their vocational integration.

Article 2 of Act IV of 1991 on the promotion of employment and the allowances of unemployed persons (Act on the Promotion of Employment)¹⁶⁰ expressly claims that while the requirement of equal treatment must be respected in connection with the promotion of employment and the support of job seekers, this does not exclude the possibility of offering additional rights to those who are in a disadvantaged position on the labour market.

Accordingly, companies employing young workers can apply for different forms of state support. For instance, as of April 2024, employers can apply for support if they employ a registered job seeker under the age of 30. The duration of the support is 4 months, the support amounts to 50 % of gross salary costs of the employee (with a cap).¹⁶¹

Protection against dismissal exists for older workers. Under Article 66(4) and (5) of the Labour Code, employers shall be allowed to terminate an employee's employment relationship within a five-year period preceding the employee's eligibility for the old-age pension by regular dismissal only in particularly justified cases. Under Article 77(4), the amount of severance pay is increased by up to three months' average earnings if the employee's employment relationship is terminated within a five-year period before their eligibility for the old-age pension.

4.6.3 Minimum and maximum age requirements

In Hungary, various exceptions permit minimum and/or maximum age requirements in relation to access to employment and training.

According to Article 34 of the Labour Code, all persons entering into an employment relationship as employees must be at least 16 years of age. During the school holidays, full-time pupils and students attending primary school, vocational school or secondary school may also enter into an employment relationship, provided that they are at least 15 years old. Under the same Article, persons younger than 16 may be employed for the purposes of performance in artistic, sports, modelling or advertising activities subject to prior authorisation by the competent guardianship authority.

In addition to these general rules, minimum age requirements apply only to a very limited number of positions (e.g. members of the Constitutional Courts shall be at least 45 years old, judges shall be at least 35 years old).

The Constitutional Court has dealt with a number of cases that raise the question of whether it is legitimate to define a minimum or maximum age with regard to certain positions and occupations. In its Decision No. 857/B/1994,¹⁶² the court stated the following: 'the legislator is entitled to subject the exercise of certain professions and the filling of certain positions to age-related conditions, i.e. to set a lower and an upper age limit.' The Constitutional Court established that 'age-related restrictions concerning the filling of certain positions shall not be regarded as discriminatory unless they are arbitrary'.

¹⁶⁰ Act IV of 1991 on the promotion of employment and the allowances of unemployed persons (1991. évi IV. törvény a foglalkoztatás elősegítéséről és a munkanélküliek ellátásáról), 23 February 1991, <https://net.jogtar.hu/jogszabaly?docid=99100004.tv>.

¹⁶¹ See the National Employment Service website: https://nfsz.munka.hu/cikk/4271/Ifjusagi_Garancia_Plusz_Program_Bertamogatás.

¹⁶² Constitutional Court, 857/B/1994 AB határozat, 20 February 1995, <https://public.mkab.hu/dev/dontesek.nsf/0/C4B0DFED73219E48C1257ADA005294B9?OpenDocument>.

Therefore, according to the Constitutional Court, 'differentiation based on age is permitted, if it pertains to each person in the given category and is not arbitrary, i.e. it is reasonable and necessary for the aim to be achieved'. No case law from ordinary courts is currently available on this matter, nor has the compatibility of age limitations for certain professions been discussed during the transposition of the directives.

4.6.4 Retirement

a) State pension age

In Hungary, there is a difference between the private and the public sphere in relation to the legal consequences of reaching pension age.

In Hungary, in the private sphere, there is no state pension age at which individuals must begin to collect their state pensions. An individual can collect a pension and still work, which means that there is no need to defer a pension if an individual wishes to work for longer.

In Hungary, in the public sphere, there is a state pension age at which individuals must begin to collect their state pensions. An individual cannot collect a pension and still work in a public position, but if he or she wishes to work for longer, the pension can be deferred under certain circumstances.

Under Article 18 of Act LXXXI of 1997 on State Pensions¹⁶³ (State Pensions Act), the pension age in Hungary is 65 years for both men and women. Notably, only workers with 20 years' service are eligible for a full old-age pension, others can receive a partial pension. There is one significant exception: women with 40 years' service (including maternity leave and other similar periods) can retire irrespective of their actual age.

Employees are not obliged to begin to collect their state pensions and they can continue working after pension age. However, when they reach pension age, they are considered to be pensioners from the point of view of the Labour Code (Article 66), provided that they have the necessary number of service years. This means that their protection against dismissal and redundancy ceases, as explained below.

Penalties are not imposed on employees who work beyond pension age. In the private sphere, there is no cap on the number of working hours and the salary of persons collecting their pensions.

In the public sphere, however, a person who has reached pension age has to choose between collecting their pension or continuing to work (provided that, according to the rules pertaining to the individual, he or she has the choice to continue working – see below). Under Article 83/C of the State Pensions Act, payment of the pension has to be suspended if the pensioner starts working (or continues to work) in different public service positions, e.g. as a teacher in a public school, a doctor in a public hospital, a civil servant working in the public administration, a judge, a justice employee (e.g. a court clerk), a prosecutor or a person serving in a law enforcement agency or the army. Under a 2023 amendment of the provision, the Government can determine exemptions to this rule in a decree to make sure that public service tasks are duly performed.

An intricate system regulates the amount of work that incapacitated pensioners can perform and the salary they can receive without being disqualified from their pension: the lower the level of incapacity, the higher the number of limitations.

¹⁶³ Act LXXXI of 1997 on State Pensions (1997. évi LXXXI. törvény a társadalombiztosítási nyugellátásról), 25 July 2007, http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=99700081.TV.

The differentiation between the public and private sphere was challenged before the European Court of Human Rights in the case *Fábián v. Hungary* (Application No. 78117/13). In its judgment handed down on 15 December 2015,¹⁶⁴ the ECtHR concluded unanimously that there had been a violation of the applicant's rights under Article 14 in conjunction with his right to property. However, in its judgment of 5 September 2017,¹⁶⁵ the Grand Chamber overturned the first instance judgment. With a vote of 11 to 6, it held that, since the applicant had not demonstrated that as a member of the civil service whose employment, remuneration and social benefits were dependent on the state, he was in a relevantly similar situation to those pensioners who were employed in the private sector and the differentiation did not amount to discrimination.

b) Occupational pension schemes

In Hungary, there is a standard age when people can begin to receive payments from occupational pension schemes and other employer-funded pension arrangements.

Under the provisions of Article 7 of the Private Pensions Act, employers and professional chambers (such as the bar association) may establish private pension funds for their employees or members. Employers may also undertake to supplement the payments made by employees into private pension funds. Private pension funds established by employers and other private pension funds operate in the same way. Employees may request that such private pension funds start to pay their pensions when they reach pension age, as defined in the law relating to state pensions, or later, depending upon their choice.

Collecting pensions from such schemes does not prevent employees from continuing to work, but the restrictions referred to above and described in detail below also apply to employees who receive private pensions.

c) State-imposed mandatory retirement ages

In Hungary, there are state-imposed mandatory retirement ages with discretion to extend in certain cases. These only apply to public employment; there are no state-imposed mandatory retirement ages in the private sector.

Compulsory retirement only exists in the case of employees in the public service, e.g. civil servants, judges, public notaries, the professional personnel of armed organisations.

- Under Article 60(1)(j) of Act CXIX of 2011 on Civil Servants,¹⁶⁶ the service relationship of civil servants ceases when they reach the general pension age (provided that they have 20 years of service). If they do not have 20 years of service, or if they receive special permission from their superior, they may continue to work, but not after reaching the age of 70.
- Under Article 90(ha) of Act CLXII of 2011 on the status and remuneration of judges¹⁶⁷ (Judicial Status Act), judges have to retire when they reach the pension age (65), unless they request the continuation of their service relationship, in which case they may continue to serve as judges until the age of 70 (under the terms of Article 90(hc) of the Judicial Status Act).

¹⁶⁴ European Court of Human Rights, *Fábián v. Hungary* Application. No. 78117/13, 15 December 2015, <http://hudoc.echr.coe.int/eng?i=001-159210>.

¹⁶⁵ European Court of Human Rights, *Fábián v. Hungary* [GC], Application No. 78117/13, 5 September 2017, [https://hudoc.echr.coe.int/eng#{"itemid":\["002-11655"\]}](https://hudoc.echr.coe.int/eng#{).

¹⁶⁶ Act CXIX of 2011 on Civil Servants (2011. évi CXIX. törvény a közszolgálati tisztviselőkről), 30 December 2011, http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1100199.TV.

¹⁶⁷ Act CLXII of 2011 on the status and remuneration of judges (2011. évi CLXII. Törvény a bírák jogállásáról és javadalmazásáról), 2 December 2011, http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1100162.TV.

- Similar rules apply to prosecutors under Articles 26/A and 34(d) of Act CLXIV of 2011 on the status of the chief public prosecutor, prosecutors and other prosecutorial employees and the prosecutorial career.¹⁶⁸
- Similar rules apply to notaries public under Article 22(1)(d) of Act XLI of 1991 on Public Notaries.¹⁶⁹
- Under Article 80(1)(a) of the Law Enforcement Organisations Act, the service relationship of the professional member ceases once they reach the upper age limit of professional service. Under Article 81, the upper age limit coincides with the general pension age.

These provisions were not subject to debate during the transposition of the directives. However, they were subject to serious domestic and international criticism when the mandatory retirement age for judges and prosecutors (which was 70 before the entry into force of the Fundamental Law in April 2011) was abruptly reduced to the actual general pension age with an insufficient transition period.

The Commission brought an action against Hungary for failure to fulfil obligations on the basis that the contested Hungarian regulation is contrary to Directive 2000/78 in that it gives rise to unjustified discrimination and is neither appropriate nor necessary to achieve the allegedly legitimate objectives. In its decision of 6 November 2012,¹⁷⁰ the CJEU established that the national scheme requiring the compulsory retirement of legal professionals when they reach the age of 62 was not in line with Articles 2 and 6(1) of Directive 2000/78/EC. The radical lowering of the retirement age (with a very short transition period) and the simultaneous raising of the general pension age did not take sufficient account of the interests of those affected and could not therefore be seen as necessary to achieve the objective of standardising the retirement age for public sector professions. Following up on the judgment, the Hungarian legislation adopted Act XX of 2013,¹⁷¹ remedying most of the failures.

d) Retirement ages imposed by employers

In Hungary, national law does not permit employers to set retirement ages (or ages at which an employment contract can be terminated) by contract and/or collective bargaining and/or unilaterally.

e) Employment rights applicable to all workers irrespective of age

The law on protection against dismissal and other laws protecting employment rights do not apply to all workers irrespective of age, if they remain in employment after attaining pension age.

Under Article 66(9) of the Labour Code, the employer is not obliged to provide reasons for the dismissal if the employee has passed pension age. In all other cases, reasons must be provided, and if a dispute arises, the employer will be obliged to prove that the reasons are real and relevant. On the other hand, only an exceptionally reasonable justification

¹⁶⁸ Act CLXIV of 2011 on the status of the chief public prosecutor, prosecutors and other prosecutorial employees and the prosecutorial career (2011. évi CLXIV. törvény a legfőbb ügyész, az ügyészek és más ügyészégi alkalmazottak jogállásáról és az ügyészi életpályáról), 28 November 2011, http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1100164.TV.

¹⁶⁹ Act XLI of 1991 on Public Notaries (1991. évi XLI. törvény a közjegyzőkről), 7 October 1991, http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=99100041.TV.

¹⁷⁰ Judgment of 6 November 2012, *European Commission v. Hungary*, C-286/12, ECLI:EU:C:2012:687, <http://Kuria.europa.eu/juris/document/document.jsf?text=&docid=129324&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1&cid=20661>.

¹⁷¹ Act XX of 2013 on amendments related to upper age limits to be applied in certain relationships in the justice sphere (2013. évi XX. törvény az egyes igazságügyi jogviszonyokban alkalmazandó felső korhatárral kapcsolatos törvénymódosításokról), 25 March 2013, <http://mkogy.jogtar.hu/?page=show&docid=a1300020.TV>.

may be acceptable if the dismissal takes place within five years before the employee reaches pension age.

Another restriction is that employers are exempted from severance payment if they dismiss an employee after the employee has reached pension age (Article 77(5) of the Labour Code). On the other hand, if the dismissal takes place within five years before the employee reaches pension age, an additional three months' salary must be paid in addition to the severance payment prescribed by law.

f) Compliance of national law with CJEU case law

In Hungary, national legislation on mandatory retirement is in line with CJEU case law on age.

From what is set forth above, it can be concluded that Hungarian national legislation is for the most part in line with most principles arising in CJEU case law.

The domestic law clearly does not seem to be in line with the jurisprudence of the CJEU when it comes to the exclusion of employees beyond pension age from severance payment (cf. the CJEU's *Andersen* judgment¹⁷² in which the Court concluded that by not permitting payment of the severance allowance to workers who, although eligible for an old-age pension from their employer, nonetheless wish to waive their right to such a pension temporarily in order to continue with their career, the pertaining national law unduly prejudices the legitimate interests of workers in such a situation and thus goes beyond what is necessary to attain the social policy aims pursued).

4.6.5 Redundancy

a) Age and seniority taken into account for redundancy selection

In Hungary, national law does not permit age or seniority to be taken into account in selecting workers for redundancy. However, as was pointed out above, it is possible to dismiss someone who has passed pension age without having to provide reasons.

b) Age taken into account for redundancy compensation

In Hungary, national law provides compensation for redundancy. This is affected by the age of the worker.

If a person is dismissed after they have reached pension age (and have the necessary service time), they are not entitled to compensation. Otherwise, if a person is dismissed due to redundancy, they are entitled to compensation, and the amount of the compensation is dependent on the number of years they have worked for the company, so age may play a role in the amount. Furthermore, if an employee is dismissed within the five-year period preceding their retirement age, they shall be entitled to additional compensation amounting to up to three times their monthly salary (Article 77 of the Labour Code).

4.7 Further exceptions necessary in a democratic society: public security, public order, criminal offences, protection of health, protection of the rights and freedoms of others (Article 2(5), Directive 2000/78)

In Hungary, national law does not include exceptions that seek to rely on any of the factors listed in Article 2(5) of the Employment Equality Directive (public security, the maintenance of public order and the prevention of criminal offences, the protection of health and of the

¹⁷² Judgment of 12 October 2010, *Ingeniørforeningen i Danmark v Region Syddanmark*, C-499/08, ECLI:EU:C:2010:600.

rights and freedoms of others). However, these grounds could be referred to when claiming that a certain action falls under Article 7(2) of the ETA, i.e. it serves the enforcement of a fundamental right and is necessary, suitable and proportionate, or it is found by objective consideration to have a reasonable ground.

For instance, the Equal Treatment Authority heard a case in which the complainant launched a procedure because a public bath banned him from using the swimming pool because of the stoma seal he was wearing. The public bath argued that the complainant had been prevented from using the swimming pool because of the health risk it would have posed for the other guests. The Authority looked into the argument and concluded that, since the stoma seal had provided sufficient protection against leakage, the complainant's GP had confirmed that the complainant was a responsible user of the stoma seal and since other guests who do not have similar visible signs of their health conditions (e.g. persons with an STD or simply the flu) might also carry health risks when using the services of public baths, reliance on the protection of health as a ground for the differentiation was not acceptable.¹⁷³ The decision was upheld by the Budapest Regional Court.

Another case, where a company collecting blood-plasma prevented a gay man from donating plasma, can also be quoted as an example when the respondent referred to the protection of health of others. The equality body accepted this to be a legitimate ground, but found that since in the given case other, less restrictive measures could have guaranteed the safety of the recipients, the differentiation based on sexual orientation was not justified.¹⁷⁴

4.8 Any other exceptions

In Hungary, other exceptions to the prohibition of discrimination (on any ground covered by this report) provided under national law are the following:

With regard to education – Article 28

(1) If the education is organised only for students of one sex, it does not violate the principle of equal treatment, provided that participation in such 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 institutions of public or vocational education, at the initiation and by the voluntary choice of the parents, or

b) in higher education, by the students' voluntary participation, education based on religious or other ideological conviction is organised in a way that the goal or the curriculum of the education justifies the creation of separate classes or groups and provided that this does not result in any disadvantage for those participating in such education, and that the education complies with the requirements approved, laid down and subsidised by the state.

(2a) The organisation of education based on religious or other ideological conviction as set forth in Paragraph (2) shall not result in segregation based on characteristics listed in Article 8 b) to e) [racial affiliation, colour of skin, nationality (not in the sense of citizenship) or belonging to a national minority].

(2b) If the education is organised on the basis of belonging to a national minority, the principle of equal treatment is not violated only if it meets the requirements set forth in Paragraph (2) and

a) acquiring the knowledge required by the core curriculum is guaranteed at the same level as in the majority education, and

b) education based on belonging to a national minority complies with the requirements set forth in the Act on the Rights of Nationalities.

¹⁷³ Equal Treatment Authority, Decision No. EBH/95/2018, no date available.

¹⁷⁴ Ombudsman, [Decision No. EBF-AJBH-139/2021](#), May 2021.

With regard to access to goods and services – Article 30

[...]

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

(3) The limitation provided for in Paragraph (2) must be obvious from the name of the establishment and the circumstances of the use of the service; this shall not be done in a manner that may be humiliating and defamatory to individuals who do not belong to the particular group, and furthermore it must not provide an opportunity for an abuse of this right.

Article 30/A

(1) In relation to insurance services and services based on the insurance principle – with the exception of group life, casualty and health insurances and unless the pertaining laws stipulate otherwise – differentiation based on gender infringes the principle of equal treatment if the service provider's measure results in gender-based direct or indirect differentiation in relation to the fees to be paid by or the services provided to the concerned individuals.

(2) In relation to services referred to in Paragraph (1), costs related to pregnancy and maternity shall not lead to differences in relation to the fees to be paid by or the services provided to the concerned individuals.

These may be problematic with regard to racial or ethnic origin, as the Racial Equality Directive does not envisage specific exemptions allowing direct discrimination in connection with these fields. This may be a breach of the transposition obligation, which, however, could be remedied by applying the principles of the direct and indirect effect and the primacy of EU law.

5 POSITIVE ACTION (Article 5 Directive 2000/43, Article 7 Directive 2000/78)

a) Scope for positive action measures

In Hungary, positive action in respect of racial or ethnic origin, religion or belief, disability, age or sexual orientation is permitted under national law.

National law does not differentiate between protected grounds, nor is it limited to employment, when providing for preferential treatment. Pursuant to Article 11(1) of the ETA, 'a measure aimed at the elimination of an expressly identified social group's objectively substantiated inequality of opportunities is not considered a breach of the principle of equal treatment if a) it is based on an act of Parliament, 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, and/or b) the election of a party's executive and representative organ and the setting up of a candidate at the elections defined under the Election Procedure Act is executed in line with the party's fundamental rules'.

Paragraph (2) provides that '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'.

Certain provisions of domestic law *expressis verbis* allow for positive action: (i) RDP Act, Article 3: Given their situation, persons with disabilities have less access to their rights than others, therefore, it is reasonable to accord preferences to them in all possible ways; (ii) ETA, Article 23: An act, a Government decree based on an act or collective contract may impose an obligation to provide preferential treatment to a specified group of employees in respect of the labour relationship or other relationship relating to employment; (iii) ETA, Article 25(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 social groups within the framework of the social and healthcare system, in accordance with the provisions herein; (iv) ETA, Article 29: A Government decree created pursuant to the law or the authorisation thereof may impose an obligation to provide preferential treatment to a specified group of participants in education within or outside the school system in respect of education or training.

One example of positive action related to age is the state support available for companies employing young workers, including coverage of 50 % of the gross salary for a limited period of time (see Section 4.6.2).

b) Quotas in employment for persons with disabilities

In Hungary, national law provides for a quota for the employment of persons with disabilities.

A quota-type measure relating to the employment of people with an altered ability to work (including persons with disabilities) is constituted by Act CXCI of 2011 on the benefits of persons with an altered ability to work and the amendment of certain laws.¹⁷⁵

Under Article 2 of Act CXCI of 2011, a person with an altered ability to work is any person over the age of 15 whose 'health status' is assessed by the rehabilitation authority as being 60 % or less. This category includes but is not limited to those who are regarded as being persons with disabilities in terms of Directive 2000/78, as persons with chronic health problems also fall under this definition. Since this is the category that is used in both the legislation and statistics, it is not possible to narrow down the data to persons with

¹⁷⁵ Act CXCI of 2011 on the benefits of persons with an altered ability to work and the amendment of certain laws (2011. évi CXCI. törvény a megváltozott munkaképességű személyek ellátásairól és egyes törvények módosításáról), 29 December 2011, http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1100191.TV.

disabilities, but it can be assumed that any increase in the employment rate of people with an altered ability to work also means a certain increase in the numbers of persons with disabilities in employment.

Under the quota-type measure regulated by Article 23 of Act CXCI of 2011, employers¹⁷⁶ are obliged to pay a 'rehabilitation contribution'¹⁷⁷ if they have more than 25 employees and the proportion of persons with an altered ability to work within the workforce is below 5 %. According to analyses, this quota system, which has been in place since 1998, albeit with changing conditions and figures, has achieved some improvement in the employment of persons with an altered ability to work: their employment rate increased from 11 % to 35 % between 2001 and 2019,¹⁷⁸ and while the proportion of employers employing persons with an altered ability to work was 17 % in 2008,¹⁷⁹ in 2023, 69 % of the companies employing over 250 persons employed persons with an altered ability to work.¹⁸⁰ According to a statement by the Secretary of State at the Ministry of Human Capacities, who is responsible for social affairs and social catching up, 155 000 persons with an altered ability to work were employed in 2020; this equates to an employment rate of 44 %.¹⁸¹ By 2024, this had slightly increased to 160 000 persons, amounting to an employment rate of close to 50 %.¹⁸² Similar numbers have been reported for 2025.¹⁸³

¹⁷⁶ The duty applies (under identical conditions) to both the private and the public sector, with some exemptions, including law enforcement bodies, companies established for the specific purpose of employing inmates and the army.

¹⁷⁷ The amount per unfilled position per year is nine times the minimum wage; in 2025 it was approximately EUR 7 300.

¹⁷⁸ See: <https://www.vg.hu/vilaggazdasag-magyar-gazdasag/2019/07/megduplazodott-a-megvaltozott-munkakepessegek-foglalkoztatasi-aranya>.

¹⁷⁹ Tardos, K. (2013), 'Jó gyakorlatok a megváltozott munkaképességűek foglalkoztatására' (Good practices in employing persons with altered labour suitability), *Kultúra és Közösség*, 2013/I, available at: <http://www.hrportal.hu/download/megvaltozottmunkakepesseg.pdf>.

¹⁸⁰ See: Bacsák, D. (2023) 'Rehabilitációs foglalkoztatás Magyarországon' (Rehabilitation employment in Hungary), available at: https://www.bkmkik.hu/attachments/article/6171/rehab_elemzes_prognosis_2022_230316_FIN.pdf, p. 5.

¹⁸¹ See: Tax Online (2020) 'Employment support for people with disabilities is increasing', 6 November 2020, <https://ado.hu/munkaugyek/no-a-megvaltozott-munkakepessegu-emberek-foglalkoztatasi-tamogatasa/>.

¹⁸² See: <https://kormany.hu/hirek/a-megvaltozott-munkakepessegu-emberek-csaknem-fele-dolgozik>.

¹⁸³ See: <https://rehabportal.hu/2026-os-helyzetkep-fogyatekossaggal-elok-magyarorszagon/>.

6 REMEDIES AND ENFORCEMENT

6.1 Judicial and/or administrative procedures (Article 7 Directive 2000/43, Article 9 Directive 2000/78)

- a) Available procedures for enforcing the principle of equal treatment

In Hungary, the following procedures exist for enforcing the principle of equal treatment: judicial, administrative and alternative dispute resolution such as mediation.

Judicial procedures

Civil courts

Victims of discrimination may sue in civil courts based on Articles 2:42 and 2:43 of the Civil Code, claiming that inherent personality rights are protected by the Civil Code, and that the right to non-discrimination is an inherent personality right. The possible remedies applicable by the court are listed under Articles 2:51-2:53 of the Civil Code. Article 2:51 reads as follows:

‘(1) A person whose inherent personality rights have been violated may – within the statute of limitation – demand the following on the basis of the violation and depending on the circumstances of the case:

- a) a court declaration of the occurrence of the infringement;
- b) to have the infringement discontinued and the perpetrator banned from further infringement;
- c) that the perpetrator provides adequate redress and publicises this fact at his or her own expense;
- d) the termination of the injurious situation and the restoration of the previous state, and the elimination of the object that came into existence as a result of the violation, or to have such an object deprived of its injurious nature;
- e) that the perpetrator or its successor hand over the financial asset acquired through the violation.’

Article 2:52 of the Civil Code stipulates that:

‘(1) A person whose inherent personality rights have been violated may claim moral compensation for the non-pecuniary damage caused to him or her.

(2) The provisions pertaining to damages shall be applied to moral compensation – with special regard to the determination of the liable person and exculpation – with the difference that for moral compensation to be payable the claimant shall not be required to prove any further damage beyond the occurrence of the violation of the inherent personality right.

(3) The sum of the moral compensation shall be determined by the court in accordance with the circumstances of the case, with special regard to the severity and regularity of the violation, the degree of liability, and the violation’s impact on the claimant and his or her environment.’

Article 2:53 stipulates that a person who suffers pecuniary damages as a result of the violation of his or her inherent personality rights, may claim damages from the violator in accordance with the general provisions governing damages.

These provisions provide victims of discrimination with a flexible instrument, as they apply to all types of discrimination regardless of the field or ground.

Following successful litigation by 60 segregated Roma pupils in Gyöngyöspata, Article 59 of the National Public Education Act was amended with a view to excluding the possibility

of demanding moral damages for the violation of inherent personality rights committed by educational institutions. Under the new legislation, if an educational institution violates the inherent personality rights of the child or pupil in relation to education, the Civil Code's provisions regarding moral damages will be applied with the difference that the moral damages are granted by the court in the form of educational or training services. The educational or training services granted by the court can be either provided or purchased by the violator. This amendment has created an unjustified differentiation between the potential consequences of inherent personality rights violations based on whether they have been committed in education or in any other area and has severely lowered the level of protection against discrimination when it is perpetrated by an educational institution.

These concerns were confirmed by the position paper¹⁸⁴ issued by the Ombudsman's Minorities Deputy on the educational situation of Roma children in Gyöngyöspata (Position Paper No. 5/2021). The position paper is highly critical of the amendment. The main criticisms can be summarised as follows:

- Financial compensation is the type of sanction that is the easiest to enforce (in the case of non-compliance): the aggrieved party does not have to rely on the violator's cooperation to get remedy, and it guarantees the victim's right to self-determination in the sense that he/she can decide how to use the damages granted as compensation for the disadvantages suffered. Thus, as a result of the amendment, the victims of violations by educational institutions, who are likely to belong to marginalised groups such as the Roma minority, may seek remedy for the non-pecuniary damages they suffer under less favourable conditions than those experienced by others.
- It is not usual in the Hungarian legal system that the perpetrator of a violation can determine or control the type and method of compensation for the violation.
- If segregated children are compensated through educational services, these services will in all probability be provided in a segregated manner, and will thus aggravate the violation stemming from segregation.¹⁸⁵

In conclusion, the Minorities Deputy emphasises that while the provision of educational services can be useful for offsetting the disadvantages suffered as a result of discrimination, this can only be an auxiliary measure applied in addition to the financial compensation.¹⁸⁶

Labour courts

In Hungary, regional courts apply the Labour Code. The most important remedies in labour law are the following.

The court may declare an agreement null and void under Article 27.

If the discrimination is manifested in the unlawful termination of employment, Article 82 stipulates that the employer compensate the employee for the damage suffered. Full compensation is limited by Paragraph (2) of the provision, according to which a maximum of 12 months' salary may be claimed by the employee under the heading of lost income. Under Article 83, if the termination of employment constitutes a violation of the requirement of equal treatment, the employee may request the court to order their reinstatement (in other cases of unlawful termination of employment, this option is only

¹⁸⁴ Deputy Ombudsman Responsible for the Rights of National Minorities Living in Hungary (2021), 5/2021. *számú elvi állásfoglalás a gyöngyöspatai roma gyermekek nevelési-oktatási helyzetével kapcsolatban feltárt egyedi és általános problémákról* (Position Paper No. 5/2021 on the individual and general problems revealed regarding the education situation of Roma children in Gyöngyöspata, hereafter: Position Paper 5/2021), 5 November 2021, <https://www.ajbh.hu/documents/2657648/adba0e8d-7646-7c6d-d13d-2eb39fa4e847>.

¹⁸⁵ Position Paper No. 5/2021, p. 41.

¹⁸⁶ Position Paper No. 5/2021, p. 41.

available in exceptional cases, such as when the dismissed employee is a trade union representative).

In other cases of discrimination (i.e. when it is not a dismissal that serves as the subject matter of the case), the employer is liable to pay full damages to the employee, as set out in Article 167 of the Labour Code.

Administrative procedures

Until 31 December 2020, the Equal Treatment Authority had the authority to take action against any discriminatory act, irrespective of the ground of discrimination (e.g. sex, race, age) or the field concerned (e.g. employment, education, access to goods). In addition to the authorisations required by the Racial Equality Directive, this body was vested with the right to impose severe sanctions on persons and entities violating the ban on discrimination (section 6.5, below, deals with the sanctions that the Authority was entitled to impose, and the organisational structure of the Authority is described in detail in chapter 7). As of 1 January 2021, the Authority's mandate and powers were transferred to the Ombudsman. This change and what it means regarding the protection of equal treatment is described in chapter 7, below.

The establishment of an equality body did not mean that all the administrative bodies that previously had authority to act in discrimination cases were deprived of their powers but it did make it necessary to create a system preventing a clash of authority. The most important administrative bodies that have the power to act in discrimination cases are described below, and the distribution of authority between them is then outlined.

Access to goods and services

Under Article 45/A(2) of Act CLV of 1997 on Consumer Protection¹⁸⁷ (hereinafter referred to as the Consumer Protection Act), the consumer protection authority monitors provisions related to the requirement of equal treatment to ensure that they are respected in the course of access to goods and services. In the event that a breach is found, the authority conducts proceedings. Under Article 47, if the authority establishes a breach of the provisions guaranteeing consumers' rights (including the requirement of non-discrimination), it may apply a number of sanctions, including a fine, the maximum amount of which is determined by the annual revenue of the service provider concerned.

Education

Under Article 79 of the National Public Education Act, the lawful operation of educational institutions is supervised by Government Offices located in each county and the capital. If an office finds a violation, it may impose an 'administrative fine'. In terms of Article 10 of Act CXXV of 2017 on the sanctions of administrative violations,¹⁸⁸ the upper limit of administrative fines is EUR 2 780 (HUF 1 million) for natural persons and EUR 27 800 (HUF 10 million) for legal persons and organisations without legal personality.

With regard to discrimination, a special sanction is also available. Under Article 79(6) of the National Public Education Act, if the Government Office establishes that the educational institution has violated the requirement of equal treatment in the course of the admission or the transfer of a pupil, upon the request of the concerned parent, it can declare that the given pupil is admitted or transferred to that particular educational institution (provided that fewer than 150 days have passed since the parent made the request), and can launch petty offence proceedings against the head of the educational institution. Following such a

¹⁸⁷ Act CLV of 1997 on Consumer Protection (1997. évi CLV. törvény a fogyasztóvédelemről), 23 December 1997, http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=99700155.TV.

¹⁸⁸ Act CXXV of 2017 on the sanctions of administrative violations (2017. évi CXXV. törvény a közigazgatási szabályszegések szankcióiról), 25 October 2017, <https://net.jogtar.hu/jogszabaly?docid=a1700125.tv>.

decision, the Government Office monitors whether the educational institution is respecting the requirement of equal treatment. This monitoring is performed as needed but at least once every academic year.

Distribution of powers

If a service provider discriminates against a customer, both the Ombudsman (as the equality body) and the consumer protection authority have competence to examine the case and impose sanctions on the discriminator. It was therefore necessary to devise a system for distributing the cases. The key principle is that it is up to the victim to decide which authority to contact. Under Article 15 of the ETA, a violation of the principle of equal treatment within the scope of the ETA may be investigated by a) the Ombudsman or b) another public administrative body that has been granted authority in a separate act to assess violations of the principle of equal treatment, as chosen by the offended party.

In order to avoid double procedures, Article 15 stipulates that the Ombudsman inform other bodies, and other bodies must inform the Ombudsman about the initiation and the outcome of a procedure relating to a case of discrimination, or about the outcome of the subsequent judicial review, if there is one. Furthermore, if a procedure relating to a case of discrimination has been initiated before any public administrative body, the other public administrative bodies a) may not proceed with the same case with regard to the same persons, and b) must suspend their procedure initiated in relation to the same case with regard to any other person until a binding decision is made in the matter. If the case has been decided by any public administrative body, then other public administrative bodies a) may not proceed in the same case with regard to the same persons, and b) must proceed with regard to other persons on the basis of the facts as established in the binding decision of the other public administrative body.

If, for example, a group of Roma people are denied access to a pub, the members of the group can decide whether they turn to the Ombudsman or the consumer protection authority. If one of them turns to the Ombudsman, the Ombudsman will notify the consumer protection authority, as the case falls under the consumer protection authority's remit as well. If another member of the group then files a complaint with the consumer protection authority, this body may not proceed with regard to the first complainant, and must suspend its procedure with regard to the second one. Once the Ombudsman has made a decision on the case, the consumer protection authority may continue its procedure, but it has to base its decision on the facts established by the Ombudsman.

The Ombudsman and a court (civil or labour) may not proceed simultaneously with a case. Under Article 15/B of the ETA, if the victim of discrimination also files a lawsuit with the court, the Ombudsman must suspend his/her procedure until the case is adjudicated, and notifies the court about the suspending decision. When the court case is closed, the court notifies the Authority about its decision. The Ombudsman can then proceed but he/she will do so on the basis of the facts of the case as established by the court. If the case has been judged by the court before the victim turns to the Ombudsman, the Ombudsman a) may not proceed in the same case with regard to the same persons, and b) will proceed with regard to other persons on the basis of the facts as established in the binding decision of the court.

Petty offence proceedings

Petty offence proceedings in the Hungarian legal system are quasi criminal proceedings devised for small-scale violations. Their procedural rules are set out in Act II of 2012 on petty offences, the petty offence procedure and the petty offence database¹⁸⁹ (Petty

¹⁸⁹ Act II of 2012 on petty offences, the petty offence procedure and the petty offence database (2012. évi II. törvény a szabálysértésekről, a szabálysértési eljárásról és a szabálysértési nyilvántartási rendszerről), 6 January 2012, http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1200002.TV.

Offences Act). Petty offences are decided upon by the general petty offence authority (i.e. the police). The decision is subject to a judicial review either on the basis of the case file or a hearing (depending on the request of the sanctioned person). The judicial decision may not be further appealed.

Discrimination in education qualifies as a petty offence. Under Article 248(5) of the Petty Offences Act, any person who discriminates against a child, pupil, person participating in the education or student is punishable with a fine of up to approximately EUR 420 (HUF 150 000). It should be noted that, under Article 19(3) of the ETA, the shifted burden of proof does not apply to these proceedings. The aggrieved party is not liable for any costs in such proceedings.

Conciliation procedures

General mediation procedure

According to Article 1 of Act LV of 2002 on mediation¹⁹⁰ (hereinafter referred to as the Mediation Act), the aim of the general mediation procedure is to facilitate the settling of civil and administrative law disputes arising in connection with the personal and property rights of private and other persons in cases where the parties' right of determination is not limited by law. As no such limitation exists in relation to the ban on discrimination in the Civil Code or the ETA, victims of discriminatory acts are entitled to resort to the mediation procedure.

Under Article 36, the agreement reached in a mediation procedure does not prevent the parties from asserting their claim in a court procedure. However, in these cases, claimants are liable to pay all costs.

Mediation by the Ombudsman

Under Article 75 of Act CL of 2016 on the General Administrative Procedure¹⁹¹ (GAP), public administrative authorities are obliged to try to resolve the conflict by forging an agreement between the parties, if the case is decided in a hearing. Pursuant to Article 83 of the GAP, if the parties reach an agreement at the hearing or otherwise, and the agreement complies with the laws and the Fundamental Law and contains adequate provisions concerning the deadline for compliance and the bearing of procedural costs, then the proceeding authority approves it and includes it in a formal decision.

As a public administrative body, the equality body is also subject to the above obligations regarding friendly settlements. Under Article 16 of the ETA, the Ombudsman as the equality body is obliged to try to forge a friendly settlement between the parties.

Education

Decree 40/1999 of the Minister of Education established the Commissioner for Educational Rights.¹⁹² Under Article 1 of the Decree, the Office of the Commissioner for Educational Rights is an independent, internal organisational unit of the ministry responsible for education that promotes citizens' rights concerning education. The Decree establishes a special conciliation procedure.

¹⁹⁰ Act LV of 2002 on mediation (2002. évi LV. törvény a közvetítői tevékenységről) (Mediation Act), 17 December 2002, http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0200055.TV.

¹⁹¹ Act CL of 2016 on the General Administrative Procedure (2016. évi CL. Törvény az általános közigazgatási rendtartásról), 14 December 2016, <https://net.jogtar.hu/jogszabaly?docid=A1600150.TV>.

¹⁹² Decree 40/1999 of the Minister of Education on the Commissioner for Educational Rights (40/1999. (X. 8.) OM rendelet az Oktatási Jogok Miniszteri Biztosa Hivatalának feladatairól és működésének szabályairól), 8 October 1999, <http://net.jogtar.hu/jr/gen/getdoc2.cgi?dbnum=1&docid=99900040.OM>.

Parents, students, teachers, etc. have the right to complain, provided that all available administrative remedies have been exhausted and less than a year has elapsed since the measures complained of were handed down or carried out (Article 5).

Complaints not dismissed by the Commissioner are subject to the conciliation procedure. The Commissioner sends the petition to the institution about which a complaint has been made and requests a declaration. The Commissioner attempts to establish a consensus between the institution and the petitioner. In the event of an agreement, the Commissioner prepares a report and sends it to the parties concerned. If no consensus is reached, the Commissioner prepares a report on the results of the conciliation and calls on the institution to terminate the infringement. In the case of non-compliance, the Commissioner sends a recommendation to both the institution and its supervisory organ. The latter must respond within 30 days. The Commissioner reports to the minister responsible for education (Article 7).

Other forums to be approached in cases of discrimination

The 'Ombudsman'

Hungary's Ombudsman is the Commissioner for Fundamental Rights, who has two deputies responsible for the right of future generations and minorities, respectively.

Under Article 30 of the Fundamental Law, the Ombudsman (who is appointed by a two-thirds parliamentary majority vote for six years) investigates violations of fundamental rights and initiates general or individual measures to remedy such violations.

The status and proceedings of the Ombudsman are governed by Act CXI of 2011 on the Commissioner for Fundamental Rights (Ombudsman Act).¹⁹³ Any victim of acts or omissions of public authorities or public service providers can complain to the Ombudsman's Office, provided that all administrative remedies have been exhausted or none exist. The Ombudsman can also proceed *ex officio*.

The Ombudsman can investigate any authority, including the armed forces, national security services and law enforcement organisations. He or she may request information, look into files, visit premises and can hear any employee of the examined authority. On finding a violation, the Ombudsman issues recommendations to which the supervisory body of the authority found to be in breach of fundamental rights must respond within 30 days. The Ombudsman may also (i) petition the Constitutional Court; (ii) initiate criminal or disciplinary proceedings; and (iii) propose that a legal provision be amended, repealed or issued. The Ombudsman's main publicity weapon is the annual report submitted to Parliament. They can also request parliamentary investigations and debates.

As of 1 January 2023, the Ombudsman also fulfils the role of the independent mechanism established under the UN Convention on the Rights of Persons with Disabilities (CRPD) to promote, protect and monitor implementation of the CRPD. In terms of Articles 39/N-39/Q of the Ombudsman Act, in this capacity, the Ombudsman has some rights and obligations additional to his general mandate. For instance, he may proceed *ex officio* regarding individual rights violations if the person with disability is unable to assert their rights or if the submission of a complaint would impose a disproportionate burden on them. In the course of his investigation, the Ombudsman may inspect court files and expert opinions regarding the concerned person with disability even without the authorisation of the person concerned.

As mentioned above, as of 1 January 2021, the Equal Treatment Authority's mandate and powers have been transferred to the Ombudsman. This does not mean that the proceedings

¹⁹³ Act CXI of 2011 on the Commissioner of Fundamental Rights (2011. évi CXI. törvény az alapvető jogok biztosáról), 26 July 2011, http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1100111.TV.

of the two bodies have been merged. The legislature has chosen a solution whereby it is up to the complainant to decide whether they request the Ombudsman to act in his or her capacity as the Commissioner for Fundamental Rights or as the successor of the Equal Treatment Authority. Based on this choice, there will be a difference in the Ombudsman's procedure, the complainant's rights and obligations and the outcome of the proceeding. This issue is described in detail in chapter 7, below.

b) Barriers and other deterrents faced by litigants seeking redress

Under Article 72 of Act CXXX of 2016 on the Code of Civil Procedure, legal representation is mandatory in courts as a general rule. Labour lawsuits are an exception, but civil lawsuits launched on the basis of the right to non-discrimination as an inherent personality right and the judicial review of decisions by the Ombudsman now require mandatory legal representation.

This can be highly problematic: although state-funded legal aid (including representation by a patron lawyer) is available for such cases, the indigence threshold is extremely low.

Under Article 5 of Act LXXX of 2003 on legal aid (Legal Aid Act),¹⁹⁴ the state pays a party's legal fees if the party's monthly net income (wage, pension or other regularly paid cash allowance) does not exceed the actual amount of the 'social projection-basis', and the party has no assets. The social projection-basis (previously: 'minimum pension') has been EUR 80 (HUF 28 500) for over a decade now. If a person lives alone, the state pays for legal aid if his or her available income does not exceed 150 % of the social projection-basis (EUR 120 or HUF 42 750).

Under Article 6, the state does not pay, but advances the legal fees if the monthly net income available to the party does not exceed 43 % of the national average of the gross monthly wage published by the Central Statistical Office for the second year prior (for 2025: EUR 711 or HUF 253 319), and the party has no assets.

Article 8 prescribes that the party will be regarded as eligible if his or her available income exceeds the above limits, but (i) he or she is prevented from exercising the right of disposal of their income to an extent that makes it impossible to use legal services; (ii) it is impossible for the party, even with an income in excess of the eligibility limit, to avail of legal services because of his or her specific personal circumstances, such as disability or the high costs of living in the area where he or she lives; (iii) the party is compelled to spend the income for purposes other than legal services, and failure to do so would result in an imminent threat to the life, limb, health or livelihood of the party or other persons living in the same household.

However, even with the availability of these exceptions, the indigence threshold is very low, and the inability to retain a lawyer may be a serious barrier to enforcing the right to non-discrimination.

Another deterrent may be that if the claimant loses the case, they have to pay the other party's legal costs.

With regard to labour court proceedings, it must be pointed out that in certain cases (such as dismissals), the deadline for initiating a lawsuit is relatively short: 30 days (Article 287). In this regard, there is a difference between the private and the public sector, as in some parts of the latter (e.g. the judiciary), the deadline for suing is even shorter (15 days). Courts adjudicating labour cases are located in county seats, which means that if the claimant does not live at or around the seat, money and time has to be spent on travel

¹⁹⁴ Act LXXX of 2003 on legal aid (2003. évi LXXX. törvény a jogi segítségnyújtásról), 6 November 2003, <https://net.jogtar.hu/jogszabaly?docid=A0300080.TV>.

whenever a hearing is held (unless a legal representative is involved, in which case the claimant is only obliged to appear in court if the court wishes to hear him or her in person).

With regard to barriers and deterrents in administrative procedures, the following can be said. The administrative bodies are obliged by Article 3 of the GAP to fully establish the facts of a given case. The role of legal assistance is therefore not as crucial as in court cases, although the involvement of a lawyer is obviously an asset. Furthermore, administrative proceedings are significantly shorter than court cases. On the other hand, administrative bodies may not grant compensation to the victim and may not oblige the discriminator to apologise or provide moral remedy in any other way.

c) Number of discrimination cases brought to justice

In Hungary, statistics on the number of court cases related to discrimination brought to justice are not available.

However, there is data related to the activities of the equality body. This data is discussed in Section 7.10.a, below.

d) Registration of national court decisions on discrimination cases

In Hungary, court decisions on discrimination are not registered as such by national courts.

6.2 Legal standing and associations (Article 7(2) Directive 2000/43, Article 9(2) Directive 2000/78)

a) Engaging in proceedings on behalf of victims of discrimination (representing them)

In Hungary, associations, organisations and trade unions are entitled to act on behalf of victims of discrimination.

Under Article 18(1) of the ETA, 'non-governmental and interest representation organisations' and the equality body may act on behalf of the victim in proceedings launched due to the violation of the requirement of equal treatment (for instance in civil lawsuits initiated due to a violation of inherent personality rights or labour lawsuits).

Under Article 3 of the ETA, a 'non-governmental and interest representation organisation' means:

- Any non-governmental organisation established under the Act on the right to assembly, public benefit status and the operation and funding of non-governmental organisations,¹⁹⁵ whose objectives set out in its articles of association or statutes include the promotion of equal social opportunities or the catching up by disadvantaged groups defined by an exact enumeration of the relevant protected ground(s) or the protection of human rights defined by an exact enumeration of the relevant protected ground(s).
- A minority (nationality) self-government in respect of a particular national and ethnic minority.
- A trade union in respect of matters related to employees' material, social and cultural situation and living and working conditions.

As outlined above, only those non-governmental organisations and foundations whose objectives set out in their articles of association or statutes include the promotion of equal

¹⁹⁵ Act CLXXV of 2011 on the right to assembly, public benefit status and the operation and funding of non-governmental organisation (2011. évi CLXXV. törvény az egyesülési jogról, a közhasznú jogállásról, valamint a civil szervezetek működéséről és támogatásáról), 14 December 2011, http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1100175.TV.

social opportunities for disadvantaged groups or the protection of human rights are authorised to act on behalf or in support of the victims, and they may only act to promote the rights of those protected groups that are expressly mentioned in their articles of association. There are no further conditions for legal standing in relation to associations.

To prove its legal standing, the non-governmental and interest representation organisation must submit its statutes (so that it can be established whether it is entitled to act in relation to the given complaint) and the authorisation signed by the individual victim.

As can be seen from the cases described in this report, many of which were initiated by human rights and equality NGOs as *actio popularis* claims or representatives of individual complainants, such organisations in Hungary are active in engaging on behalf of victims. Courts or other authorities generally accept their mandate to do so, and do not hinder them in carrying out their related activities.

One of the problematic areas is that there are no special provisions on victim consent in cases where obtaining formal authorisation can be difficult, e.g. from minors or persons under guardianship. In practice, this has caused problems when people under guardianship wished to take action against the guardianship office, but the guardians employed by the office refused to sign the powers of attorney.

- b) Engaging in proceedings in support of victims of discrimination (joining existing proceedings)

In Hungary, associations, organisations and trade unions are entitled to act in support of victims of discrimination.

Under Article 18(2) of the ETA, non-governmental and interest representation organisations are entitled to exercise the rights of the concerned party (e.g. making motions, submitting legal briefs, attending procedural acts) in administrative proceedings (but not before courts) that are initiated due to the infringement of the requirement of equal treatment.

In relation to acting in support of victims, the same rules as those outlined under Section 6.2.a above apply.

- c) Submitting observations, e.g. *amicus curiae* briefs/letters

In Hungary, associations, organisations and trade unions are not expressly entitled to submit observations to courts or other adjudicating bodies, such as in the form of *amicus curiae* briefs, in discrimination cases. In practice, however, such submissions are not rejected and are sometimes taken into account by adjudicating bodies.

In the procedure of ordinary courts, an example is offered by the *amicus curiae* submission of the Open Society Justice Initiative in a lawsuit launched by the Hungarian Civil Liberties Union against the Heves County Police Headquarters for its failure to intervene when extreme rightist paramilitary groups harassed the Roma population of Gyöngyöspata for over two months in 2011.¹⁹⁶ The court – which found the respondent's inaction to amount to a violation of the requirement of equal treatment – took the *amicus curiae* submission into account in its judgment.¹⁹⁷ (The second instance court overturned the decision, but that did have to do with the first instance court's reliance on the *amicus curiae* brief.)

¹⁹⁶ See: <https://www.justiceinitiative.org/uploads/d818313c-0ed2-482c-af23-6dac583d0531/domestic-gyongyospata-written-submissions-hun-20140616.pdf>.

¹⁹⁷ Eger Regional Court, Judgment No. 12.P.20.065/2013/128, 17 September 2014, https://eakta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=Egri%20T%C3%B6rv%C3%A9nysz%C3%A9k&ugyszam=P.20065/2013/128&azonosito=AHK4T_18581419.

The same applies to the Constitutional Court. Article 57 of Act CLI of 2011 on the Constitutional Court¹⁹⁸ expressly authorises the participants in the legislative process (e.g. the government or the parliament) to submit *amicus curiae* briefs when the constitutionality of a legal norm initiated or adopted by them is examined by the Constitutional Court. Both academics¹⁹⁹ and litigants²⁰⁰ have argued that – *argumentum a contrario* – it must be inferred from this legal provision that other actors (such as associations, NGOs or trade unions) are prevented from submitting such briefs. However, the Constitutional Court does admit *amicus curiae* submissions from other actors and takes them into account in assessing the constitutionality of norms.²⁰¹

d) *Actio popularis*

In Hungary, national law allows associations, organisations and trade unions to act in the public interest on their own behalf, without a specific victim to support or represent (*actio popularis*).

Under Article 20 of the ETA, if the principle of equal treatment is violated or there is a direct danger thereof, a lawsuit against the infringement of inherent personality rights, a labour lawsuit or a lawsuit related to a civil service relationship may be brought by a) the Public Prosecutor; b) the Ombudsman; or c) any non-governmental and interest representation organisation, provided that the violation of the principle of equal treatment or the direct danger thereof was based on a characteristic that is an essential feature of a human being, and the violation affects a larger group of persons that cannot be determined accurately.

Under Article 18(3), a non-governmental and interest representation organisation may – if the above conditions prevail – also choose to initiate proceedings before the Ombudsman.

It should be noted that a specificity of such cases in relation to the burden of proof is that the danger of violation is sufficiently substantiated on the part of the complainant organisation (so no actual disadvantage needs to be substantiated).

The types of associations are the same as those described above. In proceedings before the Ombudsman, such associations may seek all the sanctions that are generally applicable by the Ombudsman (see Section 6.5). Before a civil court, they may – out of the list of sanctions applicable in lawsuits initiated for the violation of inherent personality rights – seek all the sanctions with the exception of damages.

The first case to arise under the ETA was the *actio popularis* claim brought by Háttér Association, an LGBTIQ rights organisation, against a denominational university (described in more detail in Section 4.2, above).²⁰² The Chance for Children Foundation (CFCF) launched several *actio popularis* claims with respect to the segregation of Roma pupils.

The right to bring *actio popularis* claims has been restricted by a decision of the Constitutional Court. Following the handing down of the final decision in an *actio popularis* lawsuit brought by the CFCF against a local school where Roma pupils were educated in a segregated manner, the Foundation filed a complaint with the Constitutional Court,

¹⁹⁸ Act CLI of 2011 on the Constitutional Court (2011. évi CLI. törvény az Alkotmánybíróságról), 21 November 2011, http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1100151.TV.

¹⁹⁹ Váradi, Á. (2015), *Az amicus curiae intézménye* (The institution of *amicus curiae*), available at: https://real.mtak.hu/36993/1/amicus_curiae.pdf.

²⁰⁰ For a description of such an argument, see Constitutional Court, Decision No. 3185/2024. (V. 17.) AB, 17 May 2024.

²⁰¹ An example is offered by Constitutional Court, Decision No. 3385/2024. (XI. 8.) AB, 8 November 2024, where the Constitutional Court took into account the *amicus curiae* briefs submitted by the mayor of Budapest, although the institution of mayor is not among those expressly authorised under Article 57 of the Act on the Constitutional Court to submit such briefs.

²⁰² Supreme Court, Pfv.IV.20.678/2005/5, 8 June 2005, http://epa.oszk.hu/02300/02334/00020/pdf/EPA02334_Fundamentum_2005_03_100-104.pdf.

claiming that the Kúria's decision (according to which courts in general are not authorised to order an end to the segregation) had violated the pupils' constitutional rights. However, in its decision, the Constitutional Court declared the complaint inadmissible on the basis that only natural and legal persons affected by the actual individual case may file a constitutional complaint against a court decision. Since it is not the NGO that is actually affected by the segregation (in other words, the Kúria's decision affects the constitutional rights of persons other than the NGO, i.e. the pupils), it has no standing before the Constitutional Court.²⁰³ This interpretation was confirmed by the European Court of Human Rights, which rejected the CFCF's application claiming a violation of its rights under Article 6 of the European Convention of Human Rights on the basis of the lack of *locus standi*.²⁰⁴

e) Class action

In Hungary, national law does not allow associations, organisations or trade unions to act in the interest of more than one individual victim (class action) for claims arising from the same event.

It must be added, however, that, while there is no separate set of rules for such cases, associations are not prevented from obtaining authorisation from more than one victim and initiating one single case on their behalf if the claims stem from similar factual and legal bases and the court has a jurisdiction over all the respondents (Article 37 of the Code of Civil Procedure). Since the Hungarian legal system does not recognise the classic form of class action, the claims of each victim will be examined individually in such cases. Furthermore, the court may refuse to examine the cases together.

As far as the author is aware, the question of giving wider effect to Commission Recommendation of 11 June 2013 on common principles for injunctive and compensatory collective redress mechanisms in the Member States concerning violations of rights granted under Union law (2013/396/EU) was not raised as an issue during the codification process of the new Code of Civil Procedure in 2016. Nor is the author aware of any publicly announced plans to look further into the matter.

6.3 Burden of proof (Article 8 Directive 2000/43, Article 10 Directive 2000/78)

In Hungary, national law requires a shift of the burden of proof from the complainant to the respondent.

Article 19 of the ETA provides for the shift of the burden of proof. It is applicable to all grounds of discrimination, in all fields and all types of procedures, except for criminal and petty offence proceedings. The law does not differentiate between different types of discrimination (direct, indirect, harassment, instruction to discriminate) in relation to the shifting of the burden of proof.

Article 19 of the ETA addresses data protection concerns when taking into consideration both real and assumed ethnic origin.

The test for the shift of the burden of proof only requires that the allegedly injured party substantiates, rather than proves, his or her claims. Substantiation involves a lower level of certainty: if the injured party establishes facts from which it may be presumed that a disadvantage was suffered and that the party possesses a protected feature (or the other party must have assumed so), then the burden of proof is shifted. The provision reads as follows:

²⁰³ Constitutional Court, decision no. 3133/2013, 17 June 2013, <https://alkotmanybirosag.hu/ugyadatlap/?id=BA380DEF33986232C1257ADA0052495E>.

²⁰⁴ European Court of Human Rights, *Esélyt a Hátrányos Helyzetű Gyerekeknek Alapítvány v. Application* No. 786/14, 25 March 2014.

‘(1) In procedures initiated because of a violation of the principle of equal treatment, the injured party or the party entitled to assert an *actio popularis* claim shall substantiate that

- a) the injured person or group has suffered a disadvantage, or – in a case of *actio popularis* claims – there is a direct danger thereof; and
- b) the injured party or group possesses – or is assumed to possess by the violator– characteristics defined in Article 8.

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

- a) that the circumstances substantiated by the injured party of the entity entitled to assert an *actio popularis* claim do not prevail; or
- b) that it has observed or, in respect of the relevant relationship, was not obliged to observe, the requirement of equal treatment.’

The Hungarian solution requires claimants or complainants to substantiate the disadvantage and protected characteristic – real or supposed by the perpetrator. This is more generous than the solution offered by the directives: in the Hungarian system, the causal link between the protected ground and the disadvantage does not need to be substantiated in any way, whereas the directives require that facts substantiating discrimination, i.e. a disadvantage caused because of the existence of a protected ground, also be established. In the Hungarian system, it is the task of the other party to prove that there is no such link.

While this is the strictly literal interpretation, and the Equal Treatment Advisory Board (see chapter 7) issued guidelines on the shift of the burden of proof in 2006 (revised in 2008) stating that it is not the complainant’s obligation to prove that there is a causal link between the protected ground and the disadvantage,²⁰⁵ the judicial practice took a different direction and for a while followed an interpretation according to which complainants are obliged to provide evidence that makes it at least likely that they have suffered a disadvantage because they belong to a certain group.²⁰⁶

However, a shift took place in the jurisprudence in relation to a case where the complainant – the only female pool attendant at a public baths – claimed that she had been discriminated against on the basis of her gender, when the public baths dismissed only her out of the four head pool attendants in the course of a series of dismissals. In this case, the court of second instance justified the rejection of the claim – among others – by declaring that it was the claimant’s obligation to substantiate not only the protected ground (gender) and the disadvantage (the dismissal), but also the fact that there was a causal relationship between the two. The claimant requested a review by the Kúria, challenging this approach on the basis of the law’s literal interpretation and the Equal Treatment Advisory Board’s guidelines. The Kúria concluded the following:

‘It is to be inferred from the above-quoted provisions [Article 19 of the ETA] that the claimant was obliged to only substantiate that she had suffered a disadvantage and that she had one of the protected characteristics listed in Article 8 of the ETA. The law does not put the burden of proving the causal link between the disadvantage and the protected ground on the claimant (the employee). Based on the specific rules of exculpation to be applied in discrimination cases, it fell on the employer to prove that

²⁰⁵ See: Equal Treatment Advisory Board (2008) ‘Guidelines on the burden of proof’, March 2008, https://www.ajbh.hu/documents/10180/3908613/bizonyitasi_kotelezettseg.pdf/fa1047b6-a7c4-f115-7a74-714bc9b25d0e.

²⁰⁶ Supreme Court, Kfv.II.37.053/2010/8, 6 October 2010, available at: <http://birosag.hu/ugyfelkapcsolati-portal/anonim-hatarozatok-tara> using the search function.

there was no causality between the disadvantage and the protected ground, and therefore, it complied with the requirements of the ETA and Article 5 of the Labour Code. This [i.e. the Kúria's] interpretation is aligned with the stance put forth in Guideline No 384/2008. (III. 28) TT. of the Equal Treatment Advisory Board in this regard. The interpretation of the second instance court is therefore [...] erroneous.'²⁰⁷

Although, in the actual case, the Kúria found that the employer had been able to show that there had been no causal link between the claimant's gender and dismissal, the decision signalled an important shift in the jurisprudence. The decision was published as a leading judgment under the number EBH2015. M.24.

Finally, in its Summary Opinion on the Labour Courts' Jurisprudence Regarding the Violation of the Requirement of Equal Treatment (adopted in February 2017),²⁰⁸ the Kúria's jurisprudence analysis group seems to have concluded that this latter interpretation (i.e. that the claimant is not be obliged to substantiate the causal link) is to be followed.²⁰⁹ However, the group called attention to the need for further consultation on this matter between the administrative and the labour law branches of the Kúria (as the two opposing judgments came from two different branches).²¹⁰ This has become more pronounced as the courts continue to hand out judgments in which they require for the burden of proof to be shifted so that the claimant presents facts that allow for the assumption of a causal link between the protected ground and the disadvantage suffered.²¹¹

6.4 Victimisation (Article 9 Directive 2000/43, Article 11 Directive 2000/78)

In Hungary, there are legal measures of protection against victimisation.

Victimisation is prohibited by Article 10(3) of the ETA, which claims that 'victimisation is a conduct that causes infringement, is aimed at causing infringement, or threatens with infringement, against a 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'.

In a case of victimisation, the same sanctions may be applied against the perpetrator as against discriminators. As can be seen, the above definition extends the protection to persons providing any form of assistance to the victim.

In a case before the Equal Treatment Authority, the complainant was a 62-year-old forklift driver who worked as a temporary employee for over a year in a warehouse. During this time, the warehouse recruited a total of 10 permanent employees, but the complainant's applications were repeatedly rejected despite meeting the requirements. He also filed two complaints with the employer because he was of the view that he earned less than the permanent workers. A few weeks after he submitted the complaints, he was dismissed by the employer without justification. The Equal Treatment Authority concluded that the warehouse had committed direct discrimination based on age when it did not employ the complainant as a permanent worker and was liable for victimisation when it dismissed him after he had filed complaints concerning his wages. The Authority also pointed out that the

²⁰⁷ Kúria, Judgment No. Mfv. I. 10.517/2014, 2015 (no exact date available).

²⁰⁸ Kúria (2017) 'Summary Opinion on the labour courts' jurisprudence regarding the violation of the requirement of equal treatment', available at: https://kuria-birosag.hu/sites/default/files/joggyak/osszefoglalo_velemen_y_-_egyenlo_banasmod.pdf.

²⁰⁹ Summary Opinion, Suggestions and Recommendations, Point 3.

²¹⁰ Summary Opinion, Suggestions and Recommendations, Point 10.

²¹¹ An example falling outside the scope of the directives is Judgment No. 1.Kf.700.407/2023/17 of the Budapest Appeals Court, dated 11 June 2024, available at: <https://eakta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=F%C5%91v%C3%A1rosi%20%C3%8Dt%C3%A9l%C5%91t%C3%A1bla&ugyszam=Kf.700407/2023/17&azonosito=63ab5760-9148-402f-9ff5-7b005a1de180>.

underlying discrimination complaint did not necessarily have to be well-founded for victimisation to be established.²¹²

6.5 Sanctions and remedies (Article 15 Directive 2000/43, Article 17 Directive 2000/78)

a) Applicable sanctions in cases of discrimination – in law and in practice

Section 6.1 above outlined most of the sanctions that may be applied in discrimination cases (civil law sanctions, labour law sanctions, petty offence and administrative sanctions). This list is partly reiterated and partly supplemented below. A detailed description of only those remedial forums and legal institutions not described in section 6.1 is provided.

The applicable sanction regimes are the same across all the grounds of discrimination, but are different depending on the adjudicating body and the field of application.

General sanctions (applicable irrespective of sector)

In addition to the sanctions listed in Articles 2:51-2:53 of the Civil Code that can be applied by regular civil courts in lawsuits aimed at redressing the violation of the right to equal treatment as an inherent personality right (which include the possibility of awarding moral compensation to the victim), the sanctions imposed by the Ombudsman (as the equality body) can be used to redress discrimination in any sector and based on any ground.

Under Article 17/A(1) of the ETA, if the Ombudsman has established that the provisions ensuring the principle of equal treatment have been violated, he or she may a) order that the situation constituting a violation of law be terminated; b) prohibit the future continuation of the conduct constituting a violation of law; c) order that his or her decision establishing the violation of law be published; d) impose a fine; e) apply a legal consequence determined in a special act. These sanctions can be applied jointly.

Article 17/A(3) stipulates that the legal consequences set out in Article 17/A(1) will be determined on the basis of all the circumstances of the case, with particular regard to those who have been affected 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.

Under Article 17/A(5), the sum of the fine imposed by the Ombudsman can range from approximately EUR 140 (HUF 50 000) to approximately EUR 16 665 (HUF 6 million).

Under Articles 114 and 116 of the GAP, the Ombudsman's decision may not be appealed within a public administrative procedure, but it may be subjected to judicial review. In terms of Article 13(2) of the ETA, the Budapest Regional Court has exclusive competence to adjudicate such cases. Representation by a legal counsel is mandatory in these proceedings.

Education

Under Article 59(3) of the National Public Education Act, the kindergarten, school, dormitory and the organiser of occupational training are objectively and fully liable, regardless of their culpability, for damage caused to children and students in relation to their placement in kindergartens, studies in schools, membership of a dormitory and in relation to occupational training. The relevant provisions of the Civil Code will be applied

²¹² Equal Treatment Authority, [Decision No. EBH/114/2017](#), 2017 (no exact date available).

However, as explained above, after the judgment handed down in the Gyöngyöspata case (see Section 6.1), Article 59 of the National Public Education Act was amended as of 22 July 2020, with a view to excluding the possibility of demanding moral damages for the violation of inherent personality rights committed by educational institutions. Article 59(4) reads as follows:

In the author's view, this differentiation and depriving victims of educational rights violations (including discrimination) from the right to claim financial compensation, is in breach of Directives 2000/43 and 2000/78.

i. National legislation does not specifically provide for preventive and socio-preventive sanctions, in particular injunctions or structural injunctions, but such sanctions are available.

The Chance for Children Foundation won numerous *actio popularis* cases against segregated schools and the municipalities maintaining them.²¹³ However, for a long time, the courts simply declared (on the basis of the Civil Code, which listed among the sanctions of the violation of inherent personality rights a court order obliging the respondent to stop the breach) that a violation had taken place and called on the discriminators in very general terms to put an end to the discrimination. They were not willing to prescribe actual steps

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for the schools and/or the municipalities (after the recentralisation of the school system: the state body managing the schools) to take to achieve desegregation.

A change came about with the *Kaposvár* case,²¹⁴ where, in spite of a previous high court judgment concluding that the Municipal Council of Kaposvár had failed to act against the spontaneously developed segregation in one of its schools, the municipal council did not take any measures to comply with the court obligation and put an end to the segregation. Consequently, the CFCF decided to start another lawsuit in late 2013, which ended in October 2016, with the second instance court ordering that the segregated school must be closed in a sequential system from the 2017/2018 academic year onwards, and obliged the municipality to adopt a detailed desegregation plan on the admission and placement of those first-grade pupils who were in the school's catchment area. The judgment was upheld by the Kúria, which held that courts can do more than simply declare that a violation has taken place and order in general terms – without specifying the 'how' – that the defendant should put an end to the violation: they may also order specific measures to be taken in order to enforce the requirement of equal treatment.²¹⁵

These cases have moved the jurisprudence in a direction where courts are willing to take more responsibility not only for concluding that systemic discrimination has taken place, but also to prescribe steps to address systemic discrimination.

There was, however, also a negative turn in 2023 related to the applicability of civil law sanctions, including moral damages for the violation of inherent personality rights in relation to the actions and omission of state authorities. With the help of the Hungarian Civil Liberties Union, in December 2017, six mothers and their children (aged between 29 and 42 years) living with severe accumulated disabilities (including intellectual disabilities) and being under guardianship sued the Ministry of Human Capacities (later legally succeeded by the Ministry of Interior) and the Chief Directorate for Social Affairs and Child Protection for their failure to provide supported housing in or in the proximity of Budapest, preventing the claimants from access to such housing. In its judgment of 7 December 2021,²¹⁶ the Budapest Regional Court found in favour of the complainants, and concluded that the failure of the Directorate to provide supported housing as prescribed by law and of the Ministry to create a sufficient institutional framework and to instruct the Directorate to comply with its statutory obligations, amounts to a violation of the complainants' dignity, right to private life and right to equal treatment. The first instance court obliged the respondents to (i) publish the judgment on their respective websites; (ii) provide the complainants with supported housing, and – until this can be done – provide them with the services that are available for the residents in supported housing (e.g. food, transportation, supervision, care); (iii) pay each complainant EUR 13 900 (HUF 5 million). In its judgment of 12 April 2022,²¹⁷ the Budapest Appeals Court upheld the first-instance judgment.

However, upon the respondents' request for an extraordinary review, in its judgment of 5 April 2023,²¹⁸ the Kúria overturned the judgment and rejected the petition of the complainants. The Kúria did not dispute that there is a statutory obligation on the respondents to provide supported housing to persons with severe disabilities, including the complainants. Nor did it question the fact that this obligation had not been complied with by the respondents. However – turning around the consistent jurisprudence that has

²¹⁴ Pécs Appeals Court, Pf.III.20.004/2016/4., 13 October 2016, available at:

<http://cfcf.hu/sites/default/files/kaposvarIIfok.pdf>.

²¹⁵ Kúria, Pfv.IV.20.085/2017/9., 4 October 2017, available at:

http://cfcf.hu/sites/default/files/Kaposvar2_Kuria.pdf.

²¹⁶ Judgment No. 27.Pf.21.357/2019/76. of the Budapest Regional Court, 7 December 2021.

²¹⁷ Judgment No. 8:pf.20.047/2022/5 of the Budapest Appeals Court, 12 April 2022.

²¹⁸ Judgment No. Pfv.IV.21.186/2022/10 of the Kúria, 5 April 2023, available at:

<https://eakta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=K%C3%BAr%20%2F%20IV%2F%2021%2F%20186%2F%2022%2F%2010&azonosito=df9dda2d-7f40-40af-8f5b-44e8d9f688b9>.

developed in educational segregation cases – it concluded that since by failing to perform a task prescribed by public law, state authorities do not engage in a ‘direct attack’ on the inherent personality rights of individuals (even if those individuals are concerned by the omission), therefore the Civil Code’s apparatus aimed at protecting inherent personality rights (such as the right to dignity, the right to private life, the right to non-discrimination) cannot be invoked in such cases, because that would mean that a civil court would intervene into public law relationships without adequate authorisation, which would also violate the constitutional principle of the separation of powers. Therefore, ‘the state cannot be held liable for its activities under public law by invoking to the general protection of personality [rights], and in the absence of a civil law relationship, a civil court may not oblige the [...] respondents to take measures that belong to the sphere of public law.’

The Kúria acknowledged that certain laws expressly authorise the civil courts to review public law activities by state and municipal authorities and bodies (e.g. when someone claims pecuniary damages for actions or inaction of the state), but was of the view that no such authorisation existed in the present case. It also acknowledged that the ETA is such a piece of legislation, and under its Article 4, state authorities are obliged to respect the requirement of equal treatment ‘when establishing their legal relationships, in their legal relationships, and in the course of their procedures and measures (hereafter jointly referred to as legal relationships)’. However, according to the Kúria, as there is no legal relationship between the Ministry and the Directorate on the one hand and the complainants on the other, not even under the ETA can the respondents be held liable on the basis of an inherent personality rights claim. On this basis, the Kúria concluded that a civil law suit aimed at the protection of the complainants’ inherent personality rights is not a suitable legal tool for achieving the complainants’ aims that are otherwise ‘fully worthy of support from a human perspective’.

The Kúria’s decision completely overturns previous consistent jurisprudence that found inherent personality rights invokable when a municipal or state authority’s inaction caused or maintained systemic discrimination (such as segregation in education). If the present interpretation gains ground, lawsuits aimed at addressing systemic problems stemming from the authorities’ failure to take action against inequalities will become impossible, and state obligations in this area will become unenforceable, rendering remedies against discrimination stemming from the authorities’ inactivity ineffective, and hence raising the potential non-compliance of judicial practice with Article 15 of the Racial Equality Directive (e.g. in relation to Roma pupils) and Article 17 of the Employment Equality Directive (e.g. in relation to the vocational training of trainees with disabilities).

The applicability of injunctive measures by the equality body has also been consolidated by jurisprudence. In the so-called ‘Numbered Streets’ case in Miskolc (where the municipality was systematically terminating the social housing tenancies of persons living in the Numbered Streets, a segregated Roma neighbourhood, without taking any measures to provide them with housing and thus exposing them to the threat of homelessness), the Budapest Administrative and Labour Court²¹⁹ confirmed that the Equal Treatment Authority had the right to oblige the discriminating municipality to take specifically prescribed action to end a discriminatory situation regarding housing (for more details of the case, see Section 7.8). The Ombudsman as the Authority’s successor has used this authorisation in the series of cases launched *ex officio* into the accessibility of the offices of general practitioners. In those cases where he found that the offices were not accessible, he issued a warning to the concerned municipalities, and ordered them to put an end to the violation by obliging the municipality to make the offices accessible by a set deadline and to verify it by submitting to the Ombudsman a certificate issued by a rehabilitation engineer.²²⁰

²¹⁹ Budapest Administrative and Labour Court, 6.K.33.048/2015/17, 25 January 2016, available at: <http://birosag.hu/ugyfelkapcsolati-portal/anonim-hatarozatok-tara> using the search function.

²²⁰ See, for instance: Ombudsman, [Decision no. EBF-AJBH-244/2023](#), October 2023 and Ombudsman, [EBF-AJBH-203/2024](#), September 2024.

- ii. In national law, there are no specific sanctions for cases of collective redress (*actio popularis* or class actions)

In Hungary, there are no specific sanctions for cases of collective redress (*actio popularis* or class actions), although the application of the types of injunctive reliefs described above (i.e. the prescription of general measures aimed at addressing a long-term omission or discriminatory practice) is more likely in such cases due to their specific nature and the conditions of launching *actio popularis* lawsuits (a violation concerning a larger group, where not all the members of the group are individually identifiable).

Furthermore, there are some limitations for sanctions applicable in *actio popularis* cases developed in the jurisprudence. First, the NGOs (and other actors)²²¹ authorised by the ETA to launch *actio popularis* civil lawsuits based on the violation of inherent personality rights of the victims of discrimination are not eligible to claim damages (as they are not the ones actually incurring those pecuniary and non-pecuniary damages that an instance of discrimination may cause). Second (as described above, in Section 6.2), entities authorised to launch *actio popularis* cases have no standing before the Constitutional Court (or the ECtHR), as they are not directly concerned by the violation.

- iii. In national law, there are no sanctions in place to deal with cases of mass discrimination, particularly as a result of the use of AI or automated systems.

No sanctions are in place in Hungary to deal with cases of mass discrimination. In this regard, the coming into force of the new Civil Code in 2014 in fact narrowed down the scale of the available sanctions.

Article 84 of the old Civil Code stipulated that 'if the amount of damages that can be imposed [in a lawsuit launched due to a violation of inherent personality rights] is insufficient to mitigate the gravity of the actionable conduct, the court shall also be entitled to penalise the person having committed a violation by ordering him/her to pay a fine to be used for public purposes'. This so-called 'public interest fine' was not a type of punitive damage, as it was payable to the state and not the victim.

In a number of *actio popularis* lawsuits, where damages could not be imposed on discriminators due to the limitation outlined above, the courts did resort to public interest fines. This obviously added to the dissuasiveness and effectiveness of the sanctions, and also provided a possibility to express the severity of the violation in pecuniary terms, so it also contributed to the proportionality of the sanction applied by the courts. However, the possibility of applying a public interest fine was left out of the new Civil Code (according to its explanatory memorandum, this was due to the fact that 'courts very rarely apply it' and 'it is alien to the concept of civil law because of its public law nature'). This means that once the cases that the courts must try under the old Civil Code (because the violation took place while it was still in force) run out, public interest fines will disappear from the Hungarian legal system, which could – in the context of non-discrimination cases – be regarded as a regression in terms of the effectiveness of the system of sanctions, raising a potential violation of Article 6(2) of the Racial Equality Directive and Article 8(2) of the Employment Equality Directive.

There is no case law on mass discrimination resulting from the use of AI or automated systems, so sanctions applied in such cases cannot be assessed at the moment.

b) Pecuniary sanctions – maximum and average amounts

Compensation (damages and moral compensation granted by the civil court) is not capped: there is no upper limit. With regard to fines that can be imposed by administrative and

²²¹ As outlined in Section 6.2, under Article 20 of the ETA, *actio popularis* lawsuits may be brought by: a) the Public Prosecutor; b) the Ombudsman; or c) any relevant non-governmental and interest representation organisation.

petty offence authorities, the laws define the highest possible amounts (these are indicated in the respective sections above).

As to the amounts awarded in civil court cases, according to Hungarian law (Articles 2:52 and 2:53 of the Civil Code), compensation for violating the requirement of equal treatment can be pecuniary (damages) and moral. Moral compensation is more usual in discrimination cases. Since moral compensation cannot be quantified, it is up to the court to decide on the compensation amount. While there is no upper statutory limit, Hungarian courts had a long-standing tendency to be rather cautious in establishing the amounts, although recently there has been a move towards somewhat more dissuasive sums. For example, in the Gyöngyöspata case, the court of second instance granted EUR 1 400 (HUF 500 000) as damages for each school year when a complainant was segregated and received inferior education, and EUR 833 (HUF 300 000) for each year when a complainant was educated in a segregated class but the substandard quality of education was not proven. As explained above, in the case concerning the absence of supported housing, the first-instance court obliged the respondents to pay each complainant EUR 13 900 (HUF 5 million) as non-pecuniary compensation.

It is important to point out that under the Hungarian system, the court may not award a higher amount than that requested by the claimant, which may lead to a situation, whereby the low sums awarded in the past may motivate claimants to lower their claims, since if a claimant demands a significantly higher sum than what is eventually awarded by the court, they will be regarded as a – partly – losing party, even if the violation is established, and may end up having to pay more in legal costs and court fees than what is as awarded in moral damages. This, in turn, keeps down the levels of moral compensation awarded in the jurisprudence.

One case that offers a perspective on the issue is a labour dispute in which a welder who was dismissed because of her sex and health status claimed EUR 20 230 (HUF 7 284 400) in moral damages for the discrimination she had suffered. The first instance court concluded that she had indeed been discriminated against, but awarded her only EUR 4 170 (HUF 1 500 000) in moral compensation.²²² The court outlined its assessment as follows: 'Regarding the severity of the violation, the court has taken it into consideration that the respondent violated the claimant's inherent personality rights intentionally [...]. When assessing the violation's impact on the claimant and their environment, the court accepted [...] the claimant's statements regarding the deterioration of her psychological status related to the dismissal, the extent and length of this deterioration, as well as the difficulties of her job search [...] after the dismissal. The documents submitted have substantiated the claimant's uncertain financial situation [...]. The claimant lost her subsistence as a result of the unlawful action of the respondent, so the disadvantage caused by the violation was significant.' In spite of this assessment, the court significantly reduced the amount of moral damages, and since the compensation claimed was significantly higher than the compensation awarded, the claimant was regarded to have lost the lawsuit according to a 73 %–27 % proportion. Consequently, she had to pay EUR 500 (HUF 181 403) to the respondent in legal costs and bear her own legal costs (including her lawyer's fee). Referring to the fact that discrimination was established on two separate grounds, the court of second instance emphasised that 'a cumulative violation of the requirement of equal treatment justifies the granting of a higher [than usual] moral compensation of punitive nature [...]'.²²³ However, it upheld the amount granted by the

²²² Judgment no. 27.M.70.162/2022/45. of the Budapest Environs Regional Court, 17 November 2023, available at: <https://eakta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=Budapest%20Környéki%20Törvényszék&ugyszam=M.70162/2022/45&azonosito=c3fc9e14-c4cb-455a-bb01-09a369c1ef22>.

²²³ Judgment no. 1.Mf.31.223/2023/5 of the Budapest Appeals Court, 1 February 2024, available at: <https://eakta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=Fővárosi%20Ítéltábla&ugyszam=Mf.31223/2023/5&azonosito=2ad86035-c0e1-4e94-a710-b84608790dd9>.

first instance court and refused to increase it, indicating that the practice of the Hungarian courts still cannot be regarded as 'generous'.

As outlined above, under Article 82 of the Labour Code, if the discrimination is manifested in the unlawful termination of employment, the employer will compensate the employee for the damage suffered. Under Article 82(2), if the claimant demands lost income as an element of the damages, a maximum of 12 months' salary may be claimed by the employee under this heading. The reason for this provision (which means a significant change to the previous situation in which no such cap existed), was that protracted lawsuits put employers in very difficult situations if, for instance, after three or four years they had to pay the full amount of the unlawfully dismissed employee's unpaid salary if the employee had not found a new job in the meantime. The change has a very detrimental effect on employees, as there is now a maximum 'penalty' that employers have to pay for unlawful dismissal. This may dissuade them from trying to reach a friendly settlement and may encourage them to extend the case for as long as possible by appealing the subsequent judicial decisions (since the delaying tactics will not have an impact on how much they have to pay in the end).

Under Article 83, if the termination of employment constitutes a violation of the requirement of equal treatment, the employee may request the court to order their reinstatement. If the claimant is reinstated, it will mean that their employment has to be regarded as continuous, so they receive their lost income as 'unpaid salary' and not as 'damages', and the cap does not apply. In any case, if the victim of the discriminatory dismissal does not claim reinstatement, there is definitely a 12-month cap on the lost income they can demand even if the lawsuit lasts longer than a year.

With regard to the Equal Treatment Authority's sanctioning practice, it applied fines of between approximately EUR 280 and EUR 14 000 (HUF 100 000 and HUF 5 000 000, respectively). In two cases of racially motivated discrimination in access to services, the Authority imposed fines of EUR 1 112 (HUF 400 000) and EUR 1 400 (HUF 500 000) respectively. A fine of approximately EUR 12 500 (HUF 4.5 million) was imposed on an employer who committed indirect discrimination (against people taking sick leave either because of their own illness or to care for their sick children) by reducing the salary of those who spent less than 85 % of their working time in the workplace.²²⁴ The highest amount ever was imposed on a bar found to be discriminating, for the second time, on the basis of ethnicity in relation to entry to the bar. In this case, the Equal Treatment Authority imposed a fine of approximately EUR 13 890 (HUF 5 million) on the bar.²²⁵ The highest fine applied by the Ombudsman as the equality body was EUR 5 550 (HUF 2 million), which was imposed on an employer that dismissed a young woman during her trial period due to her pregnancy.²²⁶

c) Assessment of the sanctions

Sanctions are regulated in such a way that they could meet the requirements set forth by the directives. However, in practice, the situation varies. Courts tend to grant higher non-pecuniary damages than in the past, but – as shown by the example above – they are still rather cautious regarding the amounts awarded (although a conclusive assessment would require: (i) more thorough research, which is made difficult by the lack of consistent court statistics on discrimination cases; and (ii) the outstandingly high inflation rates of the past years to be factored in). The trends regarding the practice of the equality body are concerning.

²²⁴ The source for the cases and amounts described here is the former website of the Equal Treatment Authority that was made unavailable by the Ombudsman six months after taking over the Authority's mandate.

²²⁵ See: http://www.neki.hu/index.php?option=com_content&view=article&id=416:oetmillio-forint-birsagot-kell-fizetnie-a-rio-cafenak&catid=1:friss-hk&Itemid=64.

²²⁶ Ombudsman, [Decision No. EBF-AJBH-18/2023](#), December 2023.

While the number of cases in which a fine was imposed had been trending downwards for a number of years (e.g. in 2012, the Authority imposed a fine in only two cases compared to 11 cases in 2011 and 20 in 2010), the trend changed around 2015, and in 2019, out of the 44 cases where the Authority concluded that a violation had taken place, a fine was imposed in 25 of them.²²⁷ However, with the transfer of the Authority's mandate to the Ombudsman, the trends seem to have reversed towards a more lenient practice. In 2021, the Ombudsman as equality body imposed a sanction in only 5 out of the 26 cases in which it concluded a violation of the right to equal treatment.²²⁸ In 2022, 2023 and 2024, the number of fines was even lower: four in each of the three years,²²⁹ whereas a manual search based on the Ombudsman's database of cases²³⁰ found that, in 2025, no fine was imposed in any of the cases where the occurrence of discrimination was concluded.

The average fine amount was increasing in the last stage of the Equal Treatment Authority's operation. In 2016, the total fine amount came to EUR 11 944 (HUF 4.3 million) in 13 cases (an average of EUR 919 or HUF 330 800 per fine), whereas in 2019, the Authority imposed fines totalling EUR 30 417 (HUF 10.95 million), resulting in an average of EUR 1 217 (HUF 438 000) per fine.²³¹ Thus, while the Authority remained somewhat cautious in using its most effective sanctioning tool, it moved towards a practice that had more potential to be effective and dissuasive around the end of its operations.

As the Authority's successor, the Ombudsman seems to be rather cautious regarding fines. In 2021, the highest amount was EUR 1 400 (HUF 500 000), imposed on a public service provider whose premises were not accessible for wheelchair users.²³² In 2022, a fine was imposed in four cases, out of which three have been uploaded to the Ombudsman's website. All these three cases concerned discrimination in employment based on pregnancy or maternity. The highest fine (EUR 2 775, or HUF 1 million) was imposed on an employer who dismissed a pregnant employee during her probationary period.²³³ For 2023, the Ombudsman's website lists four cases in which a fine was applied. The amounts are the following: (i) an EUR 275 (HUF 100 000) fine on a bakery for denying access of person accompanied by a guide dog;²³⁴ an EUR 5 550 (HUF 2 million) fine imposed on an employer for dismissing a woman during her trial period due to her pregnancy;²³⁵ an EUR 2 200 (HUF 800 000) fine imposed on an employer for dismissing a woman during her trial period due to her pregnancy;²³⁶ an EUR 2 775 (HUF 1 million) fine imposed on a bank for denying to a blind complainant access to its services without a personal helper and making injurious

²²⁷ Source for the numbers: former website of the Equal Treatment Authority that was made unavailable by the Ombudsman six months after taking over the Authority's mandate.

²²⁸ Commissioner for Fundamental Rights (2022), *Beszámoló az alapvető jogok biztosának és helyetteseinek tevékenységéről 2021* (Report on the activities of the Commissioner for Fundamental Rights and his Deputies, 2021), available at: <https://nemzetisegijogok.hu/documents/2657648/7488643/AJBH+besz%C3%A1mol%C3%B3+2021.pdf/98864dd3-2d46-3186-b0be-265d8c6f2d1a?version=1.0&t=1674640241447>, p. 97.

²²⁹ Commissioner for Fundamental Rights (2023), *Beszámoló az alapvető jogok biztosának és helyetteseinek tevékenységéről 2022* (Report on the activities of the Commissioner for Fundamental Rights and his Deputies, 2022), p. 106; Commissioner for Fundamental Rights (2024), *Beszámoló az alapvető jogok biztosának és helyetteseinek tevékenységéről 2023* (Report on the activities of the Commissioner for Fundamental Rights and his Deputies, 2023), p. 109; and *Commissioner for Fundamental Rights (2025). Beszámoló az alapvető jogok biztosának és helyetteseinek tevékenységéről 2024* (Report on the activities of the Commissioner for Fundamental Rights and his Deputies, 2024), p. 86 (at the time of writing, this report had been submitted to parliament but not adopted; therefore the version available on the parliamentary website is a draft version).

²³⁰ <https://www.ajbh.hu/ebff-jogesetek>.

²³¹ Source for the numbers: former website of the Equal Treatment Authority that was made unavailable by the Ombudsman six months after taking over the Authority's mandate.

²³² Ombudsman, *Decision No. EBF-AJBH-251/2021*, August 2021.

²³³ Ombudsman, *Decision No. EBF-AJBH-24/2022*, June 2022.

²³⁴ Ombudsman, *Decision No. EBF-AJBH-342/2023*, November 2023.

²³⁵ Ombudsman, *Decision No. EBF-AJBH-18/2023*, December 2023.

²³⁶ Ombudsman, *Decision No. EBF-AJBH-117/2023*, January 2023.

statements about him.²³⁷ For 2024, the description of the cases in which a fine was imposed²³⁸ does not specify the amounts of the fines.

d) Enforcement and monitoring of the implementation of sanctions

i) Courts and adjudicating bodies' mechanisms to monitor or enforce their decisions

The rules of the enforcement of judicial decisions are prescribed by Act LIII of 1994 on Judicial Enforcement (Enforcement Act).²³⁹ The outline of the procedure is as follows:

Final and binding judgments are to be executed by the party who is obliged by the judgment, within 15 days of the date on which the judgment is served. In the absence of voluntary execution, the entitled party (i.e. the party that won the lawsuit) submits to the competent court (usually the first-instance court that proceeded in the case)²⁴⁰ the request for launching the enforcement procedure. The court issues an enforcement order and sends it to the Office of the Hungarian Organisation of Court Bailiffs, which assigns the case to one of the court bailiffs. The court bailiff will be responsible for the enforcement of the judgment. The bailiff has different means to make sure that a judgment is enforced, including the encashment of the debt from the losing party's bank account, the confiscation and auctioning of the losing party's movable assets, or having certain actions performed at the losing party's cost. The bailiff may request the assistance of the police in the enforcement procedure. In case of non-compliance, upon the bailiff's motion, the court can also impose a fine on the losing party. Under Article 45/A of the Enforcement Act, the maximum amount of the fine is HUF 500 000 (EUR 1 370) and can be imposed repeatedly if the non-compliance continues.

The rules regarding the enforcement of administrative decisions, including the decisions of the equality body, are set forth in the GAP. In terms of Article 131, as a main rule, the provisions of the Enforcement Act are to be applied to the enforcement of administrative decisions with certain diversions. Under Article 133 of the GAP, the enforcement of administrative decisions is ordered by the first-instance administrative body *ex officio*, or upon the request of the concerned party.

ii) Possibility for courts and other adjudicating bodies to retain jurisdiction after sanctions have been imposed

As it can be seen from the above, courts and administrative bodies retain jurisdiction after sanctions have been imposed (in the sense that it is the prerogative of the first-instance court and the first-instance administrative body to order the enforcement). However, courts are not envisaged by the law to monitor the enforcement of their judgments in any way (they only take action when the concerned party requests the enforcement), whereas, while administrative bodies do have the right to monitor enforcement and launch an enforcement procedure *ex officio* in cases of non-compliance, in practice, they primarily do so only in relation to the non-payment of fines and not in relation to more complex cases, such as injunctive measures.

As far as the enforcement of the equality body's administrative decisions are concerned, the fines imposed by the Equal Treatment Authority were usually duly paid by the respondents. If they were not paid, it was usually possible to have the sanction executed by means of encashment (i.e. by approaching the relevant party's bank and requesting that the fine amount be transferred from the party's account).

²³⁷ Ombudsman, [Decision No. EBF-AJBH-7/2023](#), April 2023.

²³⁸ Ombudsman, [EBF-AJBH-62/2024](#), July 2024 and Ombudsman, [EBF-AJBH-317/2024](#), November 2024.

²³⁹ Act LIII of 1994 on Judicial Enforcement (1994. évi LIII törvény a bírósági végrehajtásról), 11 May 1994, http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=99400053.TV.

²⁴⁰ Article 15 of the Enforcement Act.

However, respect for the Authority's decisions was not unproblematic when the execution of a decision required more complex actions and a meaningful change in attitude on the part of the respondent (e.g. the changing of discriminatory practices). In the case of the 'Numbered Streets' (see above), the municipality of Miskolc formally complied with the Authority's decision to adopt an action plan, but continued to demolish the houses in the segregated Roma neighbourhood without actually providing alternative accommodation for the Roma families. The complainant NGO, NEKI, was of the view that the action plan was not actually viable and was adopted in a manner that did not take into account the interests of the Roma families. When it formally requested the Authority to enforce its decision, the Authority took the view that the municipality had met its obligations under the final and binding decision by adopting an action plan. In the absence of relevant case law, it still remains to be seen whether the Ombudsman's approach will in any way be different.

- iii) Further steps/measures courts or adjudicating bodies can take in case of non-compliance with the sanction

The steps that can be taken by courts and administrative bodies are outlined above. There are no further steps that can be taken if the measures outlined above do not lead to the desired result.

- iv) The burden of enforcing sanctions

The winning party is obliged to advance the enforcement costs (even if in the litigation phase that party is exempted from the costs). 'This is not only inconsistent, but also unfair to a person who has been litigating for years and whose personality rights have been violated. Meanwhile, the costs of enforcement proceedings are high, and there were lawyers who believed that in many cases private persons choose not to pursue enforcement because of that.'²⁴¹ Another issue is that in terms of the ministerial decree prescribing the rules concerning legal fees in enforcement proceedings, the court may reduce the fee set out in the contract between the party asking for enforcement and the retained lawyer, which means that 'it may well happen that the person asking for the enforcement shall bear part of the costs of the proceedings in the end'.²⁴² The same is true if the enforcement procedure is unsuccessful (e.g. because the losing party has no sufficient means to pay for the compensation).

The enforcement procedure is also often criticised for being costly, lengthy, overly complicated and bureaucratic.²⁴³ Problems raised by practitioners include that in the case of such a complex issue as the adoption and implementation of a desegregation plan, the applicability of the means available for the parties and the authorities is highly questionable. The problematic nature of the issue is illustrated by the above-mentioned Kaposvár case, where after the first legal win in 2010, the municipality took no measures to put an end to segregation, and instead of trying to have that judgment enforced, CFCF decided to launch another, completely new case.

Another frequently recurring issue is that the maximum imposable amount for an enforcement fine is far too low to have any real deterrent effect and that 'courts are

²⁴¹ Kádár, A., Novoszádek, N., Tóth, B. (2021), *Non-Execution of Domestic and International Court Judgments in Hungary*, available at: https://helsinki.hu/en/wp-content/uploads/sites/2/2021/12/HHC_Non-Execution_of_Court_Judgments_2021.pdf, p. 16.

²⁴² Kádár, A., Novoszádek, N., Tóth, B. (2021), *Non-Execution of Domestic and International Court Judgments in Hungary*, available at: https://helsinki.hu/en/wp-content/uploads/sites/2/2021/12/HHC_Non-Execution_of_Court_Judgments_2021.pdf, p. 16.

²⁴³ Kádár, A., Novoszádek, N., Tóth, B. (2021), *Non-Execution of Domestic and International Court Judgments in Hungary*, available at: https://helsinki.hu/en/wp-content/uploads/sites/2/2021/12/HHC_Non-Execution_of_Court_Judgments_2021.pdf, pp. 15–16.

reluctant to use the possibility of fines', and when they do, the amounts are rather low even when the losing party shows a stubborn unwillingness to comply.²⁴⁴

²⁴⁴ Kádár, A., Novoszádek, N., Tóth, B. (2021), *Non-Execution of Domestic and International Court Judgments in Hungary*, available at: https://helsinki.hu/en/wp-content/uploads/sites/2/2021/12/HHC_Non-Execution_of_Court_Judgments_2021.pdf, p. 10.

7 BODY FOR THE PROMOTION OF EQUAL TREATMENT (Article 13 Directive 2000/43)²⁴⁵

National law is, for the most part, already in compliance with Council Directive (EU) 2024/1499. For example, the ETA equips the Hungarian equality body – the Ombudsman – with the power to provide assistance to victims, to resort to means of alternative dispute resolution, to carry out inquiries, to hand down binding decisions and to litigate before courts. Where legislative amendments are likely to be needed to guarantee full compliance at the level of the legislative framework is in the selection and appointment of holders of decision-making positions, as those processes are far from transparent, and regarding the obligations of strategic planning and data collection, as no such duties are imposed on the Ombudsman at the time of writing this report. As outlined below, in practice, the lack of true functional independence of the equality body and the insufficiency of its resources raise severe problems in the Hungarian context.

7.1 National equality body

a) General 'architecture' of equality bodies

In Hungary, there is one body exercising the equality body competences stipulated by Article 13 of the Racial Equality Directive: Hungary's Ombudsman, the Commissioner for Fundamental Rights.

Until 31 December 2020 (when the Ombudsman took over this mandate), the specialised body for the promotion of equal treatment irrespective of racial or ethnic origin was the Equal Treatment Authority (the Authority) established by the ETA. It began operation on 1 February 2005. The most important rules governing the Authority, its structure, statutes and operations were stipulated in Article 8 and Articles 14-17/D of the ETA.

During the period in which the Authority was 'equality body', the Ombudsman (through his Minorities Deputy) was already performing some of the functions required by Article 13 of Directive 2000/43: it conducted independent surveys concerning discrimination, published independent reports and made recommendations on any issues relating to such discrimination. The Ombudsman in this original capacity had a very limited ability to assist victims in pursuing their complaints, and the scope of the Ombudsman's investigation was restricted to state authorities and public service providers. As mentioned above, the status and proceedings of the Ombudsman are governed by the Ombudsman Act.

On 10 November 2020, the Parliamentary Committee of Justice Affairs headed by an MP of the incumbent Fidesz Party, submitted a bill proposing the abolition of Hungary's equality body, the Authority, and transferring its tasks and competences to the Ombudsman as of 1 January 2021. The introduction of the bill was not preceded by any consultation and several bodies, including domestic NGOs representing protected groups²⁴⁶ and ILGA Europe²⁴⁷ criticised the planned changes. However, on 1 December 2020, the Parliament passed the law, which came into force on 1 January 2021.

²⁴⁵ Assessments and views concerning compliance with EU law throughout Section 7, notably for Directive 2024/1499 whose transposition deadline is 19 June 2026 after the cut off date for this report, reflect the author's opinion.

²⁴⁶ MEOSZ (National Federation of Organisations of People with a Physical Disability) (2020) 'MEOSZ says effective enforcement could be jeopardised by the abolition of the Equal Treatment Authority', press release, 16 November 2020, <http://www.meosz.hu/blog/a-meosz-szerint-veszelybe-kerulhet-a-hatekony-jogervenyesites-az-ebh-megszuntetesevel/>; Civilisation Coalition (2020) 'The merger of the Equal Treatment Authority into the Office of the Commissioner for Fundamental Rights is a very bad step', press release, 19 November 2020, <https://civilizacio.net/hu/hirek-jegyzetek/nagyon-rossz-lps-az-egyenl-bnsmd-hatsg-beolvasztasa-az-alapvet-jogok-biztosnak-hivatalba>; and Telex (2020) 'Several disability organisations are protesting against the merger of the Equal Treatment Authority', news article, 24 November 2020, <https://telex.hu/belfold/2020/11/24/ebh-aosz-mvgvosz-meosz-tiltakozas-targyalas>.

²⁴⁷ ILGA Europe (2020) 'ILGA-Europe is alarmed by Hungarian Parliament's moves to abolish the national Equal Treatment Authority', press release, 10 November 2020, <https://www.ilga->

Besides the lack of consultation with stakeholders, the change raised numerous problems in the author's view. The most important ones are:

- The Authority was one of the best functioning rights protection bodies in Hungary, and did not shy away from delivering decisions in sensitive, complex cases to protect vulnerable minority groups. The explanatory memorandum of the new law does not provide any convincing argument as to why a well-functioning body that has gained the respect of a wide range of stakeholders, including civil society organisations representing the interests of the protected groups, needed to be dismantled.
 - The Ombudsman is Hungary's national human rights institution (NHRI). In a process that started in 2019 and ended in 2022, the Sub-Committee on Accreditation (SCA) of the Global Alliance of National Human Rights Institutions (GANHRI) downgraded the Ombudsman from an 'A status' to a 'B status' national human rights institution due to its lack of functional independence, manifested in its failure to effectively engage with and publicly address all human rights issues, including in relation to vulnerable groups such as ethnic minorities, LGBTIQ, refugees and migrants as well as constitutional court cases deemed political and institutional, media pluralism, civic space and judicial independence.²⁴⁸
 - From the point of view of the sociology of organisations, the change is definitely a 'downgrading' of the issue of non-discrimination, in the sense that this was the single focus and mandate for the Authority, whereas the Ombudsman's Office is a large organisation with a wide mandate ranging from environmental protection through children's rights to the monitoring of prisons. Consequently, the degree of attention on the issue of non-discrimination has decreased, as indicated by the significantly reduced numbers of complaints received by the Ombudsman as equality body compared with the Authority (see below).
- b) Designated body for the promotion of equal treatment irrespective of racial/ethnic origin according to Article 13 of the Racial Equality Directive

As far as the presence and visibility of the Ombudsman and officially designated equality body is concerned, the following can be said.

The NGO Háttér Society carried out a survey in 2021,²⁴⁹ anonymously interviewing former staff members of the Equal Treatment Authority, some of whom also continued to work at the Ombudsman's Office after the merger. According to information provided by them, there had been a significant drop in the number of complaints. The interviewees listed the following reasons for this: 'the termination of the equal treatment [referees]' network; lack of active communication; unclear information on the webpage [...]. Interviewees also mentioned the COVID situation, but emphasized that the number of cases decreased even compared to last year, where the COVID situation was already bad.'

The published numbers substantiate the concerns. In 2019, the last year in which an annual report of the Authority's work was published, the Authority received 868 complaints, handed down 44 decisions concluding that discrimination had taken place and approved of 22 friendly settlements, however, the same numbers for the Ombudsman were 462, 26 and 8 in 2021, 463, 23 and 7 in 2022, 490, 21 and 11 in 2023, and 449, 22 and 4 in 2024, respectively²⁵⁰ (no data are available for 2025). It must be added that the drop in the

europe.org/resources/news/latest-news/ilga-europe-alarmed-hungarian-parliaments-moves-abolish-national-equal.

²⁴⁸ Sub-Committee on Accreditation of the Global Alliance of National Human Rights Institutions (2022), *Report and Recommendations of the Virtual Session of the Sub-Committee on Accreditation (SCA)*, 14–25 March 2022.

²⁴⁹ Háttér Society (2021), *Information on the Abolishment of the Equal Treatment Authority in Hungary. A Briefing Written for the Experts of the Venice Commission on September 15, 2021*, <https://en.hatter.hu/sites/default/files/dokumentum/kiadvany/hatter-venicecommission-eta.pdf>.

²⁵⁰ Equal Treatment Authority (2020), *Annual Report 2019*, previously available on the website of the former Authority; Commissioner for Fundamental Rights (2022), *Beszámoló az alapvető jogok biztosának és*

number of complaints is likely to be even more significant than this data implies. This is because 'with the integration [...the Ombudsman] changed the methodology of reporting [...] on the annual number of cases. Up until the report about 2020, the case-load report contained the number of [...] complaints] received in the given year, while from 2021 the case-load numbers cover the [...]complaints] dealt with in the given year, which means that [...] complaints] received but not closed in previous years are also included'.²⁵¹ If this is taken into account, the numbers are as follows: 'In 2020, [...] the Authority] received 994 [...] complaints]; in 2021–2023, this dropped to a bit more than one third of the earlier case number, i.e. to 351, 355 and 368 respectively. [...] Furthermore, in the first half of 2024, the number of [...] complaints] further decreased: only 144 cases were reported, which is a 22 % drop compared to the number of cases reported in 2023 proportionately.'²⁵²

In the author's opinion, it is concerning that the Ombudsman does not seem to be making a significant effort to change these trends or seek publicity to promote awareness regarding the equality mandate.

As far as the legislation is concerned, the Ombudsman (as the equality body) has very wide responsibilities: it is vested with the right and duty to act against any discriminatory act irrespective of the ground of discrimination (sex and corresponding identity, racial affiliation, colour of skin, nationality (not in the sense of citizenship), belonging to a national minority (which term in Hungarian – "*nemzetiséghez való tartozás*" – also includes ethnic minorities, such as the Roma), mother tongue, disability, health condition, religion or belief, political or other opinion, family status, maternity (pregnancy) or paternity, sexual orientation, age, social origin, financial status, part-time nature of employment legal relationship or other legal relationship relating to employment, or fixed period thereof, belonging to an interest representation organisation, any other situation, attribute or condition of a person or group) or the field concerned (e.g. employment, education, access to goods). The Ombudsman is vested with the right to impose severe sanctions on persons and entities that violate the ban on discrimination.

As far as accessibility and barriers are concerned, the following can be said. In terms of Article 16 of the ETA, the complainant does not have to advance the costs of the proceeding of the equality body, and is also exempted from having to pay them in case the complaint is rejected for any reason, unless they acted in bad faith. The respondent must bear their own costs.

Under Articles 16(5) and 16(6) of the ETA, if the equality body holds a hearing, it is to be organised in the offices of the municipality where the complainant lives. If this municipality does not have offices that are suitable for this purpose, the hearing is to be held in the premises of the closest municipality with suitable offices. If the equality body summons a person, it summons that person to the offices of the municipality where the summoned person lives. These provisions are aimed at mitigating any geographical and financial

[felyetteseinek tevékenységéről 2021](#) (Report on the activities of the Commissioner for Fundamental Rights and his Deputies, 2021), p. 97; Commissioner for Fundamental Rights (2023), [Beszámoló az alapvető jogok biztosának és felyetteseinek tevékenységéről 2022](#) (Report on the activities of the Commissioner for Fundamental Rights and his Deputies, 2022), p. 106; Commissioner for Fundamental Rights (2024), [Beszámoló az alapvető jogok biztosának és felyetteseinek tevékenységéről 2023](#) (Report on the activities of the Commissioner for Fundamental Rights and his Deputies, 2023), p. 109; Commissioner for Fundamental Rights (2025), [Beszámoló az alapvető jogok biztosának és felyetteseinek tevékenységéről 2024](#) (Report on the activities of the Commissioner for Fundamental Rights and his Deputies, 2024), p. 86 (at the time of writing, this report had been submitted to parliament but not adopted; therefore the version available on the parliamentary website is a draft version).

²⁵¹ Berta, D., Dombos, T., Kádár, A., Moldova, Zs., Polgári, E., Vinnai, E. (2024), *The last piece of the puzzle? Assessing the performance of Hungary's national human rights institution*, available at: https://helsinki.hu/en/wp-content/uploads/sites/2/2024/12/HHC_Assessment_of_Hungarian_NHRI_2024.pdf, p. 26.

²⁵² Berta, D., Dombos, T., Kádár, A., Moldova, Zs., Polgári, E., Vinnai, E. (2024), *The last piece of the puzzle? Assessing the performance of Hungary's national human rights institution*, available at: https://helsinki.hu/en/wp-content/uploads/sites/2/2024/12/HHC_Assessment_of_Hungarian_NHRI_2024.pdf, pp. 25-26.

barriers that would hinder access to the equality body's procedure. However, under Article 16(10) of the ETA, if the application of Articles 16(5) and 16(6) would create a disproportionate burden or would lead to the unnecessary protraction of the proceeding, the equality body may summon the persons to be heard to its own offices. In this case, the body will reimburse the concerned person's travel costs.

The abolishment of the Equal Treatment Authority has weakened the accessibility of the equality body's procedure in one very important aspect: legal assistance to those who cannot afford to retain a lawyer. In terms of the Legal Aid Act, legal assistance is available for indigent persons for drafting legal briefs, however, the application for legal aid is a complicated process with a lot of documents to be obtained and submitted.

That is why the setting up in September 2009 of an equal treatment referee system was an important step. In each county, one referee (a practising lawyer) was chosen and contracted to be available for consultations on potential discrimination complaints irrespective of the concerned person's financial situation. The referees forwarded complaints of discrimination to the Equal Treatment Authority, provided assistance to the complainants in formulating their petitions and operated as a kind of filtering system. In 2018, the referee system served 1 576 clients and forwarded 64 complaints to the Authority.²⁵³ The referee network was dissolved after the Ombudsman took over the Authority's mandate, which, in the author's view has negatively impacted the Hungarian equality body's ability to provide independent assistance to victims of discrimination in pursuing their complaints under Article 13 of the Racial Equality Directive, thus raising, in the author's view, another potential violation of the Directive's non-regression clause, and with the potential to raise issues regarding compliance with Article 12 of Directive 2024/1499 (Equality Bodies Directive) after June 2026.

It must be mentioned on the positive side that in 2022, the Ombudsman opened six regional offices to increase its geographical accessibility,²⁵⁴ however, this does not make up for the loss of the referee network that was present in all of the 20 counties of Hungary.

In terms of Article 16(2) of the ETA, the minutes of hearings and the final decision in the case must be prepared in Braille, if a client with visual impairment requests so.

Requirements regarding the physical accessibility of the premises of the equality body are not prescribed in the ETA but stem from the general obligations in this regard. In terms of Article 4(f) of the RPD Act, 'public service' shall mean, among other things, all activities involving the exercise of public authority, including official, governmental and all other administrative and judicial activities. In terms of Article 4(g), 'accessibility' means a built environment that everyone can approach, enter, use and exit independently and safely. Article 4(h) contains the definition of 'equal access' and stipulates, among other things, that a service is accessible on an equal basis if its use is barrier-free, predictable, understandable and perceptible to everyone, particularly to people with impairments of mobility, vision, hearing, mental functions and communication. Finally, in terms of Article 7/A(1) of the RPD Act, 'persons with disabilities must be guaranteed equal access to public services, taking into account the different special needs of various groups with disabilities. This means that the services of the equality body must be accessible on an equal basis to persons with disabilities as well. There is no indication that this requirement is not being met in the premises and procedures of the equality body.

7.2 Political, economic and social context of the designated body

As far as the general attitude to equality and diversity is concerned, it can be said that Hungarian society has become largely suspicious of diversity, mainly as a result of the

²⁵³ Source of the information: the Equal Treatment Authority's website that was made unavailable by the Ombudsman half a year after he took over the Authority's mandate.

²⁵⁴ See the Ombudsman's website: <https://www.ajbh.hu/teruleti-irodak>.

current Hungarian Government's emphasis on the majoritarian elements of democracy and repeated denunciation of minority protection. In February 2018, at a meeting for municipal leaders, Prime Minister Viktor Orbán expressly rejected diversity:

'Diversity is not a value, it is a given. We must declare it: we do not want to become diverse in a way that we get mixed, our colour, our traditions, our national culture get mixed with others. We don't want that. [...] We want to stay like we have been for 1 100 years here in the Carpathian Basin.'²⁵⁵

Several quotes from high-ranking politicians or well-known public figures affiliated with the ruling party can be cited from the past years to illustrate that minorities characterised by the grounds protected by the EU *acquis* have been repeatedly presented in a degrading, hostile manner. A number of examples are outlined below.

Since 2015, the Hungarian Government and the governing party have been conducting an intensive nationwide campaign against migration and migrants of Muslim origin, voicing the view that Islam does not belong to Europe and that the successful integration of Muslims is unlikely.²⁵⁶ In recent years, anti-Muslim statements and the condemning of migration have been increasingly linked to the criticism of the European Union.²⁵⁷

Statements capable of inciting negative feelings towards Roma people have also been made by high-ranking Government officials and prominent supporters of the ruling party. The Government's communication concerning the Gyöngyöspata segregation judgment (mentioned in Section 6.1 above) stirred up anti-Roma sentiment. In January 2020, Prime Minister Viktor Orbán said the following: 'Hungarians accept it if [...] we spend the taxpayers' money on kindergartens which provide catching-up programmes, free meals [...]. Hungarians are not racists, they do not automatically reject the Roma', but 'there is a line that Hungarians feel should never be crossed: to give money for nothing'.²⁵⁸ A recent example of degrading language regarding the Roma is that used by the Minister for Transport János Lázár, who said at a Town Hall meeting in January 2026 the following (although he later apologised): 'If someone has to scrub the toilets on our Intercity trains — because Hungarian voters aren't exactly lining up to clean the crap out of overflowing toilets — then we have to turn to our domestic reserves. [...] And our domestic reserves are the Hungarian Gypsies.'²⁵⁹

Anti-LGBTIQ statements have also been made by high-ranking public figures, often in the form of correlating being LGBTIQ with paedophilia. For instance, making a distinction between 'Hungarians' and 'homosexuals', the Prime Minister said in a radio interview in October 2020 the following:

'In essence I'd like to confirm that in Hungary, there are laws relating to homosexuality. They are based on an extremely tolerant and patient approach. Hungarians are very tolerant in relation to this phenomenon. In fact, Hungarians are so patient that we even accept provocations of this kind with patience — although not without comment. So, we can safely say that as regards homosexuality Hungary is a

²⁵⁵ Budapest Beacon (2018) 'Orbán calls on mayors to protect Hungary', 9 February 2019, <https://budapestbeacon.com/orban-uses-conference-mayors-vow-protect-hungarys-ethnic-group/> and https://www.youtube.com/watch?v=-xyutFLn_8E.

²⁵⁶ See for instance HVG.HU (2015) 'Orbán: "Islam was never part of Europe"', news article, 16 October 2015, https://hvg.hu/itthon/20151016_Orban_Az_iszlam_soha_nem_volt_Europa_resz.

²⁵⁷ See for instance <https://www.facebook.com/438431657643388/posts/932034084949807>.

²⁵⁸ Index (2020) 'Orbán: "I have already been killed eight times by the Soros network"', news article, 17 January 2020, https://index.hu/belfold/2020/01/17/orban_engem_mar_nyolcszor_olt_meg_soros_halozata/.

²⁵⁹ Verseck, K (2026), 'Hungary: Cabinet member uses vulgar slur to insult Roma', 28 January 2026, <https://www.dw.com/en/hungary-cabinet-member-uses-vulgar-slur-to-insult-roma/a-75685467>.

patient, tolerant country. But there is a red line that must not be crossed, and this is how I would sum up my opinion: “Leave our children alone”.²⁶⁰

As was the case in the anti-migrant campaign, the rhetoric was followed by hostile legislation. After a series of laws, including the prohibition of legal gender recognition,²⁶¹ and very severe limitations on adoption by non-married persons,²⁶² in 15 June 2021, Act LXXIX of 2021 was passed by the Parliament. The act, which came into force on 8 July 2021,²⁶³ amended several different laws,²⁶⁴ and banned any advertisement or media content that ‘promotes or portrays deviation from [gender] identity aligning with sex at birth, gender reassignment, or homosexuality’ from being made available to persons under the age of 18. The Act also amended the National Public Education Act to prescribe that sessions delivered in educational institutions on sexual culture, sexual life, sexual orientation or sexual development shall not be aimed at promoting deviation from the child’s gender identity aligning with sex at birth, gender reassignment or homosexuality.

The rhetoric and legislative attacks were critiqued by several international bodies, including the Parliamentary Assembly of the Council of Europe, the Commissioner for Human Rights of the Council of Europe,²⁶⁵ the Venice Commission²⁶⁶ and the European Commission against Racism and Intolerance.²⁶⁷ On 15 July 2021, the Commission launched infringement proceedings against Hungary in relation to the new legislation, emphasising that in its view, ‘the Hungarian provisions [...] violate human dignity, freedom of expression and information, the right to respect of private life as well as the right to non-discrimination [...]. Because of the gravity of these violations, the contested provisions also violate the values laid down in Article 2 TEU.²⁶⁸ This assessment was confirmed by the June 2025 Opinion of AG Ćapeta²⁶⁹ and – after the cut-off date of this report – by the CJEU’s judgment²⁷⁰ as well.

This infringement procedure was used by the Government to tie Hungary’s debates with the European Union to the accusation that under the pretext of sensitisation, the persons and organisations offering such educational sessions are in fact trying to ‘influence the sexual development of children’ (i.e. to actually ‘recruit’). The Prime Minister said:

²⁶⁰ For the full interview in English, see: <http://www.miniszterelnok.hu/prime-minister-viktor-orban-on-the-kossuth-radio-programme-sunday-news/>.

²⁶¹ Act XXX of 2020 on the Amendment of Certain Laws related to Public Administration and on Donating Property (2020. évi XXX. törvény egyes közigazgatási tárgyú törvények módosításáról, valamint ingyenes vagyonjuttatásról), 28 May 2020, <http://www.kozlonyok.hu/nkonline/index.php?menuindex=200&pageindex=kozltart&ev=2020&szam=125>.

²⁶² Articles 99–103 of Bill T/13648.

²⁶³ The bill came into force as Act LXXIX of 2021 on harsher action against paedophile criminal perpetrators and the amendment of certain laws with a view to protecting children (2021. évi LXXIX. törvény a pedofil bűnelkövetőkkel szembeni szigorúbb fellépésről, valamint a gyermekek védelme érdekében egyes törvények módosításáról), <https://net.jogtar.hu/jogszabaly?docid=A2100079.TV×hift=20220201&txtreferer=00000003.txt>, 23 June 2021.

²⁶⁴ Including: Act XXXI of 1997 on child protection and guardianship administration; Act CCXI of 2011 on the protection of families; Act XLVIII of 2008 on the basic conditions and certain restrictions of commercial advertising activities; Act CLXXXV of 2010 on media services and mass communication; and Act CXC of 2011 on National Public Education.

²⁶⁵ See: Council of Europe (2022) Resolution 2417, <https://pace.coe.int/en/files/29712/html>; and Commissioner for Human Rights (2021) ‘Pride vs. indignity: political manipulation of homophobia and transphobia in Europe’, 16 August 2021.

²⁶⁶ Venice Commission (2021) *Opinion on the compatibility with international human rights standards of Act LXXIX amending certain acts for the protection of children*, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2021\)050-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2021)050-e).

²⁶⁷ European Commission against Racism and Intolerance (2023) ECRI REPORT ON HUNGARY (sixth monitoring cycle), <https://rm.coe.int/ecri-6th-report-on-hungary-translation-in-hungarian-1680aa687b>, pp. 11–16.

²⁶⁸ European Commission (2021), ‘EU founding values: Commission starts legal action against Hungary and Poland for violations of fundamental rights of LGBTIQ people’, 15 July 2021, https://ec.europa.eu/commission/presscorner/detail/en/ip_21_3668.

²⁶⁹ Court of Justice of the European Union (2025), ‘EU values: Advocate General Ćapeta considers that, by prohibiting or restricting access to LGBTI content, Hungary infringed EU law’, 5 June 2025, <https://curia.europa.eu/site/upload/docs/application/pdf/2025-06/cp250064en.pdf>.

²⁷⁰ Judgment of 21 April 2026, *Commission v Hungary (Valeurs de l’Union)*, C-769/22, ECLI:EU:C:2026:326.

'Brussels has clearly attacked Hungary [...] because of the child protection act. The Hungarian laws do not allow sexual propaganda in the kindergartens, schools, television and advertisements. Brussels is now demanding the amendment of the law on education and child protection regulations. Their grievance is that in our country it is not allowed what has become a steady practice in Western Europe. There, LGBTIQ activists have access to kindergartens and schools, they are the ones who provide sex education [to the children]. They want the same thing here [in Hungary], and for this reason the Brussels bureaucrats are using threats, start infringement proceedings, that is, they abuse their powers. Our children's future is at stake, so we cannot back down regarding this issue.'²⁷¹

In 2023, the state authorities started to apply the anti-LGBTIQ legislation with increasing intensity. In a number of instances, operators of bookstores were fined for not distributing LGBTIQ-themed books in closed packaging or for selling such books within the 200-metre perimeter of churches or schools. For instance, in July 2023, the Government Office of Budapest imposed a HUF 12 million (approximately EUR 33 300) consumer protection fine on a bookstore network, because it found that copies of Alice Oseman's *Heartstopper*, a popular LGBTIQ graphic novel for youth, were placed in the children's and youth literature section and were not distributed in closed packaging in the distributor's shops.²⁷² In February 2024, the Metropolitan Regional Court quashed the fine based on an issue of grammatical interpretation. However, upon the respondent's request for an extraordinary review and putting aside its consistent jurisprudence (according to which the assumed intention of the legislator can only serve as the basis of the court's interpretation if the grammatical interpretation is ambiguous), the Kúria overturned the judgment in October 2024 and sent the case back to the Metropolitan Regional Court for a retrial.²⁷³ The case is pending, and the court submitted a preliminary reference to the CJEU.²⁷⁴

A new wave of hostile legislation began in March 2025, when members of the governing party submitted three bills to parliament, on (i) the 15th Amendment to the Fundamental Law (submitted on 11 March 2025 and adopted on 14 April 2025); (ii) amending certain acts of parliament in relation to the 15th Amendment (submitted on 11 March 2025 and adopted on 14 April 2025 as Act V of 2025); and (iii) amending the act on the freedom of assembly (submitted on 17 March, adopted in a fast-track procedure on 18 March as Act III of 2025).

The 15th Amendment of the Fundamental Law added the following to Article L (1) of the Fundamental Law: 'A human being is either a man or a woman.' As pointed out by civil society organisations, 'the explanatory memorandum of the amendment makes it clear that the aim is to constitutionally prohibit legal gender recognition for all transgender people, which has already been banned by [lower-level] law since 2020.'²⁷⁵

Act V of 2025 amended the ETA, deleting 'gender identity' from the list of the grounds on which protection against discrimination is granted, and at the same time replacing the term 'sex' with the term 'sex and corresponding identity' in the list.

²⁷¹ 444 (2021) 'Orban initiates "child protection" referendum', 21 July 2021, <https://444.hu/2021/07/21/orban-gyermekvedelmi-nepszavazast-kezdemenyez>.

²⁷² For more details see EELN (2023) 'Flash report: Hungary', 15 August 2023, <https://www.equalitylaw.eu/downloads/5914-hungary-bookseller-is-heavily-fined-for-displaying-youth-book-portraying-homosexuality-without-protective-packaging>.

²⁷³ Judgment No. Kfv.VI.37.280/2024/8. of the Kúria, 17 October 2024, <https://eakta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=K%C3%BAr%20%2F37%2F280%2F8&azonosito=1ff74a94-189d-45a1-b71c-ad6b1313b0a8>.

²⁷⁴ Case C-638/25, *Lira*, <https://infocuria.curia.europa.eu/tabs/affair?lang=EN&publishedId=C-638%2F25&searchTerm=%22C-638%2F25%22>.

²⁷⁵ Hátér Society (2025), 'According to Fidesz, a person is a man or a woman, in that order', press release, 12 March 2025, <https://en.hatter.hu/node/36840>.

Finally, Act III of 2025 amended the Assembly Act, introducing a new Article 13/A setting out that it is prohibited to hold an assembly that violates the prohibition set forth in Article 6/A of Act XXXI of 1997 on the Protection of Children and Guardianship Administration. Article 6/A, which was introduced in 2021 as part of the anti-LGBTIQ legislative package outlined above, prohibits to make accessible to persons under 18 years old content that 'promotes or portrays deviation from [gender] identity aligning with sex at birth, gender reassignment, or homosexuality'.

All three sets of amendments mentioned above entered into force on 15 April 2025, and on the basis of the new provisions, the police banned both the Budapest Pride scheduled for 28 June 2025 and the Pécs Pride scheduled for 4 October 2025. Despite the bans, both events went ahead and were held peacefully with a record turnout of over 250 thousand participants in Budapest. However, criminal proceedings were launched against both Gergely Karácsony, Mayor of Budapest, and Géza Buzás-Hábel, a Pécs-based gay and Roma activist²⁷⁶ for their roles as organisers of the respective events, as, under the Hungarian Penal Code, organising and recruiting for an assembly that has been banned by the authorities is a criminal offence punishable with up to one year of imprisonment. Charges were pressed against both of them in January 2026.²⁷⁷

The author is of the view that the sudden abolition of the Equal Treatment Authority (which did not shy away from handing down strict decisions in politically sensitive cases²⁷⁸) and the transfer of its mandate to the Ombudsman, who – as opposed to the Authority – has been practically silent on such issues, especially after a change of ombudspersons in autumn 2019, are not independent from this political context and the incumbent party's continued attacks on diversity and vulnerable minorities.

One incident that seems to substantiate this (and the doubts about the functional independence of the Ombudsman as concluded by GANHRI) is related to the last two publications of the Minorities Deputy, whose mandate expired on 3 November 2025. Her so-called Public Warning regarding the discriminatory impacts of Act XLVIII of 2025 on the Protection of Local Identity (see section 3.2.9) and her Position Paper on the role of denominational schools in the segregation of Roma pupils (see section 3.2.7) were published on the following day. However, on 17 November 2025, it was reported by national media that both papers had been removed from the website of the Ombudsman's Office. On 18 November, the Ombudsman's Office issued a press release²⁷⁹ claiming that the two documents had been published in violation of the rules governing the Deputy's operations, which – according to the Ombudsman's stance – prescribe consultation between the Ombudsman and the Deputies before the Deputies can publish any conclusions and do not allow for the issuance of any recommendations to state bodies or other addressees of such publications. The press release claims that, for this reason, the two publications may not be regarded as official acts of the former Minorities Deputy and therefore they will not be uploaded to the website of the Ombudsman's Office. The press release contains the promise that those documents issued by the Minorities Deputy before the new Ombudsman took office (on 26 September 2025) will be reuploaded to the website after the Office's new website is up and running. However, it has been done in a way that the reports are particularly difficult to find. Human rights experts are of the view that the

²⁷⁶ For more details, see: https://helsinki.hu/en/wp-content/uploads/sites/2/2025/10/CriminalisingPecsPride_AIHU_HATTER_HCLU_HHC_28102025.pdf.

²⁷⁷ Kassam, A. (2026), 'Budapest mayor charged over his calls for people to defy Hungary's Pride ban', *The Guardian*, 28 January 2026, <https://www.theguardian.com/world/2026/jan/28/budapest-mayor-gergely-karacsony-charged-hungary-pride-ban>; and Nielsen, N. (2026), 'Gay Pride organiser faces jail as Hungary tightens grip on civil rights', 17 February 2026, <https://euobserver.com/203410/gay-pride-organiser-faces-jail-as-hungary-tightens-grip-on-civil-rights/>.

²⁷⁸ See, for instance, the case described in flash report *Budapest Mayor's Office fined for blocking access to LGBTIQ websites*, 29 May 2019, and the 'Numbered Streets' decision described in Section 6.5.

²⁷⁹ See: <https://www.ajbh.hu/-/2670755-298>.

main reason for the removal of the two documents is their political sensitivity rather than any procedural problem in their drafting and publication.²⁸⁰

7.3 Institutional architecture

In Hungary, the designated body forms part of a body with multiple mandates. As described above, the single-mandate Equal Treatment Authority was abolished, and its mandate was transferred to the Ombudsman as of 1 January 2021.

The Ombudsman has the right and obligation to look into any fundamental rights violation. Under Article 1 of the Ombudsman Act, the Ombudsman must pay special attention to the protection of (i) children's rights; (ii) the rights of national minorities living in Hungary; (iii) the rights of the most vulnerable social groups; (iv) environmental rights.

The Ombudsman has two deputies: the Deputy Ombudsman Responsible for the Rights of National Minorities Living in Hungary (Minorities Deputy) and the Deputy Ombudsman Responsible for the Protection of the Interests of Future Generations (i.e. environmental rights).

When the Equal Treatment Authority's mandate was transferred to the Ombudsman's Office, an Equal Treatment Directorate was set up to carry out the tasks of the Authority. Former staff members of the Equal Treatment Authority, some of whom have continued to work at the Ombudsman's Office, told Hättér Society²⁸¹ that the idea of a directorate was only put in place to create the impression that there would be more autonomy for the equality mandate, but in reality 'it is a department like any other'.

Under Article 39/M of the Ombudsman Act, the Equal Treatment Directorate must cooperate with the Minorities Deputy in cases where the ground for discrimination is affiliation with a national minority. The complainant has a choice as to whether they want the Ombudsman to act in its original capacity or in its capacity as successor to the Authority. If the complainant does not make a choice or requests the launching of both types of procedure, the Ombudsman must act on the basis of the Equal Treatment Act. If however, the complaint concerns discrimination based on affiliation with a national minority, the Minorities Deputy can decide which procedure the Ombudsman should follow in the investigation of the complaint.

7.4 Status of the designated body – general independence and resources

a) Status of the body

(i) Status: the Ombudsman and the deputies are constitutional positions established by Article 30 of the Fundamental Law.

(ii) Selection of governing body: the Ombudsman and the deputies are elected by the Parliament with a two-thirds majority. Under Article 5 of the Ombudsman Act, the Ombudsman is nominated by the President of the Republic, and the deputies are nominated by the Ombudsman. The candidate for the position of Ombudsman must (i) have a law degree; (ii) be eligible to vote; (iii) be at least 35 years of age; and (iv) possess outstanding theoretical knowledge or at least 10 years of experience in the area of fundamental rights.

²⁸⁰ Szabó, A. (2025), 'A nemzetiségi ombudsmanhelyettes azt tette, ami egy alkotmányos rendszerben a dolga: próbálta megvédeni a sérülékenyek jogait' (The Minorities Deputy did what would be her job in a constitutional system: to protect the rights of the vulnerable), 21 November 2025, <https://qubit.hu/2025/11/21/a-nemzetisegi-ombudsmanhelyettes-azt-tette-ami-egy-alkotmanyos-rendszerben-a-dolga-probalta-megvedeni-a-serulekenyek-jogait>.

²⁸¹ Hättér Society (2021), *Information on the Abolishment of the Equal Treatment Authority in Hungary. A Briefing Written for the Experts of the Venice Commission on 15 September 15, 2021*, <https://en.hatter.hu/sites/default/files/dokumentum/kiadvany/hatter-venicecommission-eta.pdf>.

The term of office for both the Ombudsman and the deputies is six years and they can be re-elected once.

(iii) Sources of funding: the equality body is financed from the central state budget. Under Article 41 of the Ombudsman Act, the Ombudsman's Office – providing the institutional framework for the Ombudsman's activities – is a 'special status organisation', the budget of which constitutes an independent chapter within the central state budget. The Ombudsman has full autonomy in how the budget earmarked for the chapter is spent.

(iv) Powers to recruit and manage staff: the Ombudsman has the right to recruit and manage their staff, and exercises an employer's rights with regard to all staff members, including the deputies (with the exception of the election and dismissal of the deputies).

(v) Accountability: the Ombudsman is only accountable to the Parliament, to which it must submit a report on an annual basis. Under Articles 16 and 17 of the Ombudsman Act, the Ombudsman can be removed only by the Parliament and only if (i) they fail to terminate a conflict of interest; (ii) they cannot perform their tasks for more than 90 days due to circumstances for which they are not at fault (e.g. illness); or (iii) they do not perform their tasks for more than 90 days due to circumstances for which they are at fault, or fail to make a declaration of assets, or provide false information in their declaration of assets.

The Ombudsman and the deputies enjoy the same type of immunity as members of Parliament.

b) Independence of the body

Although the guarantees of independence (in terms of election, removal, institutional framework, budgetary independence) are in place on paper, there are concerns with regard to the functional independence of the Ombudsman. As mentioned above, the Ombudsman as NHRI has been downgraded due to the lack of such independence. In its June 2021 report, the Sub-Committee on Accreditation of GANHRI (SCA) expressed the view²⁸² that the Ombudsman 'has not effectively engaged on and publicly addressed all human rights issues, including in relation to vulnerable groups such as ethnic minorities, LGBTI, refugees and migrants as well as constitutional court cases deemed political and institutional, media pluralism, civic space and judicial independence. The SCA is of the view that the CFR [i.e. the Ombudsman] has not spoken out in a manner that promotes protection of all human rights. The failure to do so demonstrates a lack of sufficient independence. Therefore, the SCA is of the view that the CFR is operating in a way that has seriously compromised its compliance with the Paris Principles'. The Paris Principles set out the internationally agreed minimum standards that national human rights institutions (NHRIs) must meet to be considered credible. They require NHRIs to be independent in law, membership, operations, policy and control of resources. NHRIs that comply with the Paris Principles are accredited with A status, while those that partially comply are accredited with B status.

For these reasons, among others, the SCA recommended that the Hungarian Ombudsman be downgraded from A status to B status. The decision on the downgrading eventually became final in 2022, since the Ombudsman failed to make time for a meeting with the SCA and refute the SCA's concerns.²⁸³

²⁸² Sub-Committee on Accreditation of the Global Alliance of National Human Rights Institutions (2021), *Report and Recommendations of the Virtual Session of the Sub-Committee on Accreditation (SCA)*, 14-24 June 2021.

²⁸³ Global Alliance of National Human Rights Institutions (2022), *Accreditation status as of 27 April 2022*, https://ganhri.org/wp-content/uploads/2022/04/StatusAccreditationChartNHRIs_27April2022.pdf.

c) Resources

(i) The annual budget of the body: under Chapter IV of Act LV of 2023 on Hungary's Budget for the Year 2024,²⁸⁴ the budget of the Ombudsman is around EUR 8.34 million (HUF 2.97 billion). This means a 1.5 % increase compared to the 2023 budget, whereas the inflation rate in Hungary was 17.6 % in July 2023,²⁸⁵ when the 2024 budget was passed by the Parliament, meaning that in real terms, the Ombudsman's budget was in fact cut.

Under Chapter IV of Act XC of 2024 on Hungary's Budget for the Year 2025,²⁸⁶ the Ombudsman's budget for 2025 was EUR 9.5 million (HUF 3.42 billion). This is a 14 % increase, whereas the inflation rate in December 2024 was 4.6 %, ²⁸⁷ so the loss of the previous year was mostly compensated in real terms.

(ii) In the annual budgets, only the total budget of the Ombudsman's Office is identified, therefore, there is no publicly available information on how much of the total amount is spent on the equality mandate. This also has an impact on the independence of the equality mandate. As opposed to the Equal Treatment Authority, which had its own designated budget, offering relative financial security, the budget of the Equal Treatment Directorate is fully integrated into the Ombudsman's budget, and as the Ombudsman has full control over the allocation of resources within its Office, there are no safeguards guaranteeing the financial stability of the Directorate.

(iii) Total number of staff: according to the Ombudsman's website, the actual number of staff was 130 on 1 January 2026, and 88 positions were vacant (68 for more than three months).²⁸⁸

(iv) Number of staff dedicated to the equality mandate: according to the Ombudsman's response to a freedom of information request submitted by the Háttér Society in the summer of 2024, the Equal Treatment Directorate worked with nine staff members handling cases.²⁸⁹ There is no publicly available information on the Ombudsman's website regarding the number of staff dedicated to the equality mandate, so no more up-to-date information can be provided.

7.5 Grounds and fields covered by the designated body

The Ombudsman has a mandate to deal with all the grounds contained in the open-ended list of Article 8 of the ETA: (a) sex and corresponding identity, b) racial affiliation, c) colour of skin, d) nationality (not in the sense of citizenship), e) belonging to a national minority (which term in Hungarian – *'nemzetiséghez való tartozás'* – also includes ethnic minorities, such as the Roma), f) mother tongue, g) disability, h) health condition, i) religion or belief, j) political or other opinion, k) family status, l) maternity (pregnancy) or paternity, m) sexual orientation, n) --, o) age, p) social origin, q) financial status, r) part-time nature of employment legal relation or other legal relation aimed at labour, or determined period thereof, s) belonging to an interest representation organisation, t) any other situation, attribute or condition of a person or group). The Ombudsman's mandate therefore extends to all possible grounds on the basis of which unlawful differentiation may be made.

²⁸⁴ Act LV of 2023 on Hungary's Budget for the Year 2024 (2023. évi LV. törvény - Magyarország 2024. évi központi költségvetéséről), 27 July 2022, <https://net.jogtar.hu/jogszabaly?docid=a2300055.tv>.

²⁸⁵ See: <https://www.ksh.hu/gyorstajekoztatok/#/hu/list/far>.

²⁸⁶ Act XC of 2024 on Hungary's Budget for the Year 2025 (2024. évi XC. Törvény Magyarország 2025. évi központi költségvetéséről), 30 December 2024, <https://net.jogtar.hu/jogszabaly?docid=a2400090.tv>.

²⁸⁷ See: <https://bankmonitor.hu/mediatar/cikk/46-lett-a-decemberi-inflacio-a-2024-es-teljes-atemelkedes-37-volt/>.

²⁸⁸ Office of the Commissioner for Fundamental Rights (2026), Elemi költségvetés (Basic budget), available at: <https://www.ajbh.hu/documents/10180/806018/Elemi+k%C3%B6lts%C3%A9gvet%C3%A9s+2026.pdf/cc09576c-29f7-a3d3-2a23-b7a949541693?t=1770300717587>.

²⁸⁹ Ombudsman's response no. 2664-3/2024, 13 August 2024 (on file with the Háttér Society).

As a result of the Ombudsman's quasi-judicial character, the level of attention given to the grounds depends mainly on the number of complaints concerning the different grounds.

As explained above (under Section 3.1.2), the ETA does not enumerate the fields falling under its scope: it approaches the issue of material scope from the perspective of personal scope when it says that the public entities enumerated in Article 4 of the law must respect the requirement of equal treatment in all their actions and practices, irrespective of the field they operate in. In addition, the ETA's scope extends to only four limited groups of private actors, but the material scope within which they should abide by the requirement of equal treatment may not be very accurately defined either. While it is easy to find the corresponding field (employment and access to publicly available goods and services) with regard to some of these groups (e.g. employers or private actors offering goods and services, respectively), such a correspondence is difficult to make with regard to the other two main categories (private actors making a public offer and private actors receiving state funds). As outlined above, it can be said that the material scope of the ETA covers all possible fields and sectors (and not only the ones included in the directives) with regard to the (mostly) public entities listed in Article 4 and to some of the private actors listed in Article 5. The Ombudsman's equality mandate covers these fields accordingly.

7.6 Competences of the designated body – and their independent exercise

a) Independent assistance to victims

In Hungary, the designated body has the competence to provide independent assistance to victims.

Article 14(1)(g) of the ETA gives the Ombudsman a mandate to provide independent assistance to victims of discrimination (it 'shall continually provide information to those concerned and provide them with assistance in acting against the violation of equal treatment').

In practice, since the Ombudsman's primary function in his equality mandate is the quasi-judicial adjudication of discrimination complaints, he is rather restricted in the assistance he provides to victims (in forms other than investigating and deciding their grievances).

The Ombudsman's website provides general information on the procedure (what the protected grounds are, who can initiate the procedure, what the petition should contain, what sanctions the Authority may impose, etc).

As described in Section 6.1 above, the Ombudsman is obliged to try to forge a friendly settlement between the parties (alternative dispute resolution) as part of its quasi-judicial proceedings, and will only hand down a binding decision if that proves to be impossible.

As described below, the Ombudsman has standing to bring discrimination complaints to court on behalf of identified victims and intervene in legal cases involving discrimination. However, most probably due to its different focus (quasi-judicial role), it has not exercised these rights in the first four years of its operation as Hungary's equality body.

The 'assistance to victims' competence is not exercised by third parties.

b) Independent surveys and reports

In Hungary, the designated body has the competence to conduct independent surveys and publish independent reports.

The right to conduct independent surveys is not explicitly formulated, but the possibility of doing so is implicitly included in the ETA. Under Article 14(1)(e), the Ombudsman must

'regularly inform the public and the Parliament about the situation concerning the enforcement of equal treatment'. Article 14(1)(h) states that the Ombudsman must 'provide assistance in the preparation of governmental reports to international organisations, especially to the Council of Europe, concerning the principle of equal treatment'. According to (i) in the same Paragraph, the Ombudsman must 'provide assistance in the preparation of the reports for the Commission of the European Union concerning the harmonisation of directives on equal treatment'. This is obviously only possible if the Ombudsman possesses information about the nationwide situation concerning discrimination. Therefore, in the author's view, the Ombudsman's right to carry out such surveys is not to be questioned.

The mandate to publish independent reports concerning discrimination is set out in Article 14(1)(e) of the ETA (the Ombudsman will 'regularly inform the public and the Parliament about the situation concerning the enforcement of equal treatment'), and finally Article 14(2) of the ETA ('in order to continuously inform the public, the Ombudsman shall regularly publish its reports, proposals and detailed information concerning its activities on its website').

It is also the obligation of the Ombudsman to submit an annual report to the Parliament, in accordance with Article 30 of the Fundamental Law. This report contains a chapter on the Ombudsman's work under the equality mandate (in the 204-page annual report on the Ombudsman's 2024 activities, only 17 pages are dedicated to the equality mandate, with 11 of these containing case summaries; the annual report for 2025 had not been made public at the time of writing).

The Ombudsman's Office has produced several reports of interest, including Position Paper No. 3/2023 on the skills-based assignment of pupils into classes and the educational segregation of Roma children (published on 23 January 2024)²⁹⁰ and Position Paper No. 1/2024 on how English courses organised in kindergarten by profit-oriented enterprises can lead to segregation in elementary school.²⁹¹ It must be pointed out, however, that it is not the Equal Treatment Directorate that issues these reports, but the Ombudsman and the Deputy in their original capacity. As mentioned above (section 7.2), two politically sensitive reports by the Minorities Deputy were removed by the new Ombudsman after the Deputy's mandate expired, and her earlier position papers have not been reuploaded to the reconstructed website of the office.

There is no publicly available document or other information regarding any strategic planning done by the Equal Treatment Directorate. Due to its quasi-judicial function (paired with its staffing shortages), the Directorate seems to follow a primarily complaints-based approach, although at the end of 2021, the Equal Treatment Directorate launched a comprehensive *ex officio* investigation into the accessibility for persons with disabilities of the offices of general practitioners in 10 larger ('county level') towns,²⁹² which suggests

²⁹⁰ Deputy Ombudsman Responsible for the Rights of National Minorities Living in Hungary (2023) [3/2023. számú elvi állásfoglalás a képesség szerinti osztályba sorolás és a roma gyermekek oktatási szegregációjának összefüggéseiről, valamint az oktatási inklúzió szükségességéről](#) (Position Paper No. 3/2023 on the Relationship Between Skills-based Class Assignment and the Educational Segregation of Roma Pupils).

²⁹¹ Deputy Ombudsman Responsible for the Rights of National Minorities Living in Hungary (2024), [1/2024. számú elvi állásfoglalás az óvodai költségterítéses foglalkozások, valamint az iskolai tagozatok szegregációs kockázatairól](#) (Position Paper No. 1/2024 on the Segregational Risks of Fee-based courses in kindergartens and Specialised Educational Groups in Elementary Schools).

²⁹² Commissioner for Fundamental Rights (2022), *Beszámoló az alapvető jogok biztosának és felyetteseinek tevékenységéről 2021* (Report on the activities of the Commissioner for Fundamental Rights and his Deputies, 2021), available at: <https://nemzetisegijogok.hu/documents/2657648/7488643/AJBH+besz%C3%A1mol%C3%B3+2021.pdf/98864dd3-2d46-3186-b0be-265d8c6f2d1a?version=1.0&t=1674640241447>, p 98. Problems regarding the accessibility of numerous GP offices were found in several municipalities. In these cases the Ombudsman concluded that by failing to fully ensure the accessibility of GP care for persons with disabilities, the municipalities had breached the requirement of equal treatment in the form of direct discrimination against persons with disabilities. As a sanction, the Ombudsman issued a warning to the municipalities, ordered

that there are attempts to focus on some systemic issues. Cases stemming from this investigation were also adjudicated in 2024.²⁹³ Based on the above, it may be concluded that a provision expressly prescribing the adoption of a work programme setting out the equality body's priorities and prospective activities will have to be introduced into the Hungarian legal framework in order to comply with Article 17 of the Equality Bodies Directive.

c) Recommendations

In Hungary, the designated body has the competence to issue independent recommendations on discrimination issues.

The mandate to make recommendations concerning discrimination is set out in Article 14(1)(c) of the ETA (the Ombudsman will 'review and comment on drafts of legal acts and reports concerning equal treatment'); Article 14(1)(d) of the ETA (the Ombudsman will 'make proposals concerning governmental decisions and legislation pertaining to equal treatment'); and finally Article 14(2) of the ETA ('in order to continuously inform the public, the equality body shall regularly publish its reports, proposals and detailed information concerning its activities on its website').

In practice, recommendations made by the Ombudsman as the equality body are rare (most probably due to lack of staff and the focus on the body's quasi judicial function) and are primarily of legislative and not of policy nature. According to the Ombudsman's response No. AJB-812-2/2023 provided on 10 February 2023 to the Háltér Society's freedom of information request, in 2021-22, the Equal Treatment Directorate was approached for contributions by the Ombudsman's Department for Public Law (which is primarily responsible for formulating the Ombudsman's recommendations) in a total of four cases, out of which the Directorate contributed to the recommendations formulated by the Ombudsman regarding two issues: the proposal for the directive to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms (which was sent out by the Government to the relevant state bodies for comment) and a draft regarding the amendment of Government decrees pertaining to higher education (where the Directorate formulated an opinion on how the university admissibility points should be calculated with regard to students with disabilities). In two other cases (one concerning the amendment of certain employment-related laws, and the other the conditions of using sign-interpretation services), the Directorate had no comments to make.

The Ombudsman's annual report for the year 2024 (submitted to parliament in 2025) mentions in very general terms that the Equal Treatment Directorate has participated 'directly or in cooperation with other organisational units of the Ombudsman's Office' in commenting on draft laws concerning the requirement of equal treatment, or putting forth recommendations in this area.²⁹⁴ However, no numbers or concrete examples are provided in the report about such inputs, and as these recommendations and comments are not public, it is not possible to provide a substantive assessment of their quality and degree of independence, nor is it possible to assess their effectiveness or the extent to which they are taken into account.

The Ombudsman and his deputies also have the competence to set out recommendations on the basis of their original mandate outlined in Article 2 of the Ombudsman Act, according to which the Ombudsman has the right to comment not only on draft laws, but also on

them to put an end to the infringement, and obliged them to ensure the accessibility of the offices of GPs by the date specified in the decision, and to provide proof of this to the Ombudsman by the same deadline by means of a certificate issued by a specialist rehabilitation engineer.

²⁹³ See cases [EBF-AJBH-204/2024](#), [EBF-AJBH-205/2024](#) and [BF-AJBH-206/2024](#).

²⁹⁴ Commissioner for Fundamental Rights (2025), [Beszámoló az alapvető jogok biztosának és felyetteseinek tevékenységéről 2024](#) (Report on the activities of the Commissioner for Fundamental Rights and his Deputies, 2024), p. 90.

longer term development plans and concepts, including plans concerning the natural and constructed environment. Furthermore, the Ombudsman can launch *ex officio* investigations into systemic problems, and not only into individual complaints, and the reports concluding such investigations very frequently contain recommendations concerning larger policy issues.

d) Prevention, promotion and awareness-raising

The designated body has competence to engage in the prevention of discrimination and in the promotion of equal treatment, and to adopt a strategy defining how it will engage in public dialogue, communicate with individuals and groups at risk of discrimination, provide training and guidance, and promote equality duties, equality mainstreaming and positive action among public and private entities.

Article 14 of the ETA listing the powers of the equality body is formulated very broadly, and several items on the list can be interpreted to include these competencies. Article 14(1)(g) of the ETA prescribes that the equality body 'shall continually provide information to those concerned and provide them with assistance in acting against the violation of equal treatment'. Article 14(e) stipulates that the equality body will regularly inform the public about the situation regarding the implementation of the requirement of equal treatment. Article 14(f) states that in the course of performing its tasks, the body will cooperate with civil society organisations and state bodies.

Article 2(5) of the Ombudsman Act prescribes that the Ombudsman shall promote compliance with human rights and their protection through social-awareness-raising activities and cooperation with those organisations and national institutions that aim to promote the protection of fundamental rights.

Thus, although the power is in place, in practice, these activities are completely absent from the work of the Equal Treatment Directorate (see also what is said about this issue under Section 7.1).

In the period 2009-2014, a grant was provided to the Equal Treatment Authority with the aim of enhancing its effectiveness and accessibility within the context of the Social Renewal Operative Programme 5.5.5 (the TÁMOP project) financed by the European Social Fund and the Hungarian state with a budget of approximately EUR 3 million.²⁹⁵ In the context of the project, the Authority significantly improved its direct and media outreach, organised several workshops and training activities, and published scientific research studies on different pertinent issues related to non-discrimination.

While the Authority could not continue to disseminate information and engage in dialogue with NGOs and social partners with the same intensity when the extra funding came to an end, it continued to place emphasis on awareness raising until the end of its operations, and included accounts of such activities in its annual reports.

As opposed to this, the sections written in the Ombudsman's 2021, 2022 and 2023 annual reports about the activities of the Equal Treatment Directorate contain no mention whatsoever about any preventive, promotional or awareness-raising activities or events, reflecting the absence of such efforts. According to a civil society study assessing the Ombudsman's performance in the different fields of his operation:

'In response to a FoI [freedom of information] request on the meetings with CSOs between January 1, 2021 and June 31, 2024, the [... Ombudsman's Office] provided no concrete information to questions posed on consultations with civil society; the

²⁹⁵ Unless indicated otherwise, the results of the programme are presented on the basis of its closing study, which is not available online any more due to the fact that the Equal Treatment Authority's website was shut down and made unavailable after the Ombudsman took over the equality mandate.

answer reiterates their commitment to maintain close relationships with civil society actors. They only mention meetings with CSOs in the framework of the Human Rights Roundtable operated by the Government, and one concrete meeting in 2024: a consultation was organized for the civil society members of the Disability Advisory Board on procedures and remedies under ETA, specifically how people with disabilities can benefit from those. [...] The decrease in the cooperation with civil society is noticeable in the survey results as well [a survey among NGOs regarding their cooperation with the Equal Treatment Directorate was carried out in the framework of the assessment]. While cooperation was not very intensive with the [...] Equal Treatment Authority] either (7 respondents reported no cooperation with [...] the Equal Treatment Authority], not even in the form of referrals), this grew to 13 respondents in the direction of [...] the Equal Treatment Directorate]. Consultations were particularly affected: only one respondent reported frequent or regular consultations, while 23 of the 27 respondents reported to consultations at all.²⁹⁶

Although the 2024 annual report gives two examples of activities that can be brought under this heading (responding to an interview request in the framework of a research carried out by the National Federation of Organisations of People with a Physical Disability regarding reasonable accommodation, and a lecture given to law students at one of the Budapest law faculties),²⁹⁷ even these examples show that, in this regard, the Equal Treatment Directorate's approach is not proactive, but rather one of acting in response to requests.

In the author's view this is the direct consequence of replacing the single-mandate Authority with the Ombudsman's Office, which is a large organisation that covers a wide range of issues. The Equal Treatment Directorate does not have its own communications unit, although the Equal Treatment Authority had designated staff responsible for communications. As opposed to this, according to the Ombudsman's February 2023 response to the Háltér Society's freedom of information request, only two people work on communications in the whole Ombudsman's Office (covering the original mandate of the Ombudsman and its two deputies responsible for minority and environmental affairs, the equality mandate, the mandate to investigate police complaints, the national preventive mechanism under the UN OPCAT and the independent mechanism under the CRPD).

The Directorate is therefore in a severely disadvantaged situation in the inevitable competition within the organisation for resources and attention. In the author's opinion, this – paired with the fact that its primary focus is the adjudication of the complaints and not awareness raising – logically leads to the radical reduction in awareness-raising and promotional activities.

It must be added that the Minorities Deputy, whose mandate expired in November 2025, has been proactively seeking cooperation with NGOs involved in the protection of minorities. An example is the December 2023 conference on the access to justice of vulnerable groups (including people with disabilities, Roma people and refugees), which the Deputy organised together with an association of judges, and which was attended by legal professionals and NGOs active in the field.²⁹⁸ Whether her successor will maintain this approach remains to be seen.

²⁹⁶ Berta, D., Dombos, T., Kádár, A., Moldova, Zs., Polgári, E., Vinnai, E. (2024), *The last piece of the puzzle? Assessing the performance of Hungary's national human rights institution*, available at: https://helsinki.hu/en/wp-content/uploads/sites/2/2024/12/HHC_Assessment_of_Hungarian_NHRI_2024.pdf, p. 33.

²⁹⁷ Commissioner for Fundamental Rights (2025), *Beszámoló az alapvető jogok biztosának és felyetteseinek tevékenységéről 2024* (Report on the activities of the Commissioner for Fundamental Rights and his Deputies, 2024), p. 90.

²⁹⁸ See: <https://nemzetisegijogok.hu/hu/web/njbh/-/2681089-53>.

e) Other competences

The equality body's powers and responsibilities are provided in Article 14 of the ETA. In addition to its quasi-judicial powers, its right to launch *actio popularis* legal proceedings, and the responsibilities discussed above, the list includes:

- cooperating with non-governmental and interest representation organisations and the relevant state bodies;
- informing the public and the Parliament at regular intervals about the situation concerning the enforcement of equal treatment;
- providing assistance in the preparation of Government reports to international organisations, especially to the Council of Europe concerning the principle of equal treatment;
- providing assistance in the preparation of reports for the Commission of the European Union concerning the harmonisation of directives on equal treatment;
- performing the tasks of the enforcement body responsible for enforcing 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.

As mentioned above, the key element of the equality body's activities is investigating and deciding on individual instances of discrimination. As a result, no significant emphasis has been placed on the additional functions.

7.7 Legal standing of the designated body

In Hungary, the designated body has legal standing to:

- bring discrimination complaints on behalf of identified victims to court;
- bring discrimination complaints on behalf of non-identified victims to court;
- bring discrimination complaints *ex officio* to court;
- intervene in legal cases concerning discrimination, for example, as an *amicus curiae*.

Under Article 14(1)(g) of the ETA, the Ombudsman 'shall continuously provide information to those concerned and provide assistance with regard to acting against the violation of equal treatment'.

Under Article 18 of the ETA, unless stipulated otherwise by the law, the Ombudsman may engage on behalf of the victim in proceedings initiated due to the infringement of the requirement of equal treatment, provided he or she has been authorised by the victim to do so.

Furthermore, the Ombudsman is entitled to exercise the rights of a party in administrative proceedings launched due to the violation of the principle of equal treatment.

Under Article 20 of the ETA, if the principle of equal treatment is violated, a lawsuit for the infringement of inherent personality rights, a labour lawsuit or a lawsuit related to a civil service relationship may be brought by – among others – the Ombudsman, provided that the violation of the principle of equal treatment was based on a characteristic that is an essential feature of the individual, and the violation affects a larger group of persons that cannot be determined accurately.

Due to inadequate staffing, these types of activities were already rather rare during the 2005-2020 period, when the Equal Treatment Authority filled the role of Hungary's equality body. The Authority launched one *actio popularis* lawsuit (launched on the basis of a food

company's sexually charged advertisement²⁹⁹) and intervened in one case (regarding an instance of school segregation in 2005³⁰⁰) during its entire history.³⁰¹

The Ombudsman has not launched any *actio popularis* lawsuits since it took over the equality mandate in 2021, nor has he intervened in any court case.³⁰²

7.8 Dispute resolution

a) Quasi-judicial functions

In Hungary, the designated body is a quasi-judicial institution. In Hungary, there is no separate quasi-judicial body/institution competent to decide on discrimination cases.

The Ombudsman as the designated body can issue binding enforceable decisions. It does not issue non-binding opinions.

Under Article 14(1)(a) of the ETA, the Ombudsman, based on a complaint or *ex officio*, will conduct an investigation to establish whether the principle of equal treatment has been violated, and hand down a decision on the basis of the investigation.

Proceedings usually start with a complaint. (*Ex officio* investigations were rare in the 2005-2020 period: between one and four were conducted each year.³⁰³ In 2021, the trend did not change with the merging of the Authority and the Ombudsman, but in 2022, the Ombudsman as equality body launched *ex officio* investigations into the accessibility of the offices of general practitioners in several larger towns; the investigations continued into 2024.³⁰⁴) The equality body communicates the complaint to the other party. The other party responds to the complaint in writing. The complainant has the opportunity to comment on the other party's response, and at this point the equality body usually conducts a hearing where both parties are present. A decision may also be handed down without a hearing.

Before 1 January 2018, it was mandatory as a rule to conduct a hearing. As of that date, under Article 74 of the GAP, decisions are usually made without a hearing. While the legal amendment did not change the Equal Treatment Authority's practice of holding hearings as a main rule, the Ombudsman does not seem to follow this practice. In 2021, only nine hearings were held, and although according to the 2021 annual report, this was due to the epidemic,³⁰⁵ the end of the health crisis has not changed the trend: in 2022, the Ombudsman dealt with 463 cases, handed down 180 decisions, but held as few as 18 hearings,³⁰⁶ the same numbers for 2024 were 449 and 17 respectively.³⁰⁷

²⁹⁹ Budapest Appeals Court, 2.Pf.20.122/2018/5/II, <https://drive.google.com/file/d/1wVlbHojxtASIs6WwvOIdrR9zz0UOi/view>.

³⁰⁰ Equal Treatment Authority (2007), *Annual Report 2006*, p. 58.

³⁰¹ Information from Authority staff.

³⁰² Source: the Ombudsman's response no. AJB-812-2/2023 provided on 10 February 2023 to the Háttér Society's freedom of information request, and the Ombudsman's website.

³⁰³ Information from Authority staff.

³⁰⁴ Commissioner for Fundamental Rights (2024), *Beszámoló az alapvető jogok biztosának és felyetteseinek tevékenységéről 2023* (Report on the activities of the Commissioner for Fundamental Rights and his Deputies, 2023), p. 110, and summary of legal cases on the Equal Treatment Directorate's [sub-website](#).

³⁰⁵ Commissioner for Fundamental Rights (2022), *Beszámoló az alapvető jogok biztosának és felyetteseinek tevékenységéről 2021* (Report on the activities of the Commissioner for Fundamental Rights and his Deputies, 2021), p. 97.

³⁰⁶ Commissioner for Fundamental Rights (2023), *Beszámoló az alapvető jogok biztosának és felyetteseinek tevékenységéről 2022* (Report on the activities of the Commissioner for Fundamental Rights and his Deputies, 2022), p. 106.

³⁰⁷ Commissioner for Fundamental Rights (2025), *Beszámoló az alapvető jogok biztosának és felyetteseinek tevékenységéről 2024* (Report on the activities of the Commissioner for Fundamental Rights and his Deputies, 2024), p. 86.

The equality body is obliged by law to discover and establish all the facts of the case, so it does not only rely on evidence provided by the parties. The equality body may resort to different sources of evidence, witnesses, documents and expert opinions; these are the methods it most frequently applies.

(i) Power to impose sanctions: based on the results of the proceedings, the equality body hands down a binding decision. Under Article 17/A of the ETA, if the equality body has established that the provisions ensuring the principle of equal treatment have been violated, it may apply sanctions.

(ii) Nature and level of sanctions that can be imposed: within the scope of its sanctioning powers, the equality body may a) order that the situation constituting a violation of law be terminated; b) prohibit the future continuation of the conduct constituting a violation of law; c) order that its decision establishing the violation of law be published; d) impose a fine; e) apply a sanction determined in a special act. The sanctions can be applied jointly.

Under Paragraph (5) of Article 17/A, the sum of the fine imposed by the equality body can range from approximately EUR 140 (HUF 50 000) to approximately EUR 16 665 (HUF 6 million).

There is thus a relatively wide variety of sanctions set by law that may be effectively imposed by the equality body.

The trends in sanctioning are described in detail in Section 6.5 above. Here it suffices to reiterate that while during its last years of operation, the Equal Treatment Authority imposed fines in about half of the cases where it concluded that discrimination had taken place, the Ombudsman seems much more cautious in this regard and usually refrains from applying fines: based on the information available on the Ombudsman's website at the time of writing the report, it seems that no fine was applied in any of the cases in 2025.

As far as non-pecuniary sanctions are concerned, the court decision handed down in the Numbered Streets case opened up a number of possibilities for the Authority. In its Decision No. EBH/67/22/2015,³⁰⁸ the Authority established that the municipality of Miskolc subjected the residents of a segregated, mostly Roma neighbourhood to the threat of homelessness or having to move to other segregated areas through a series of highly controversial measures. By doing so, the municipality discriminated against the residents on the basis of their social status, financial situation and Roma origin. In addition to other sanctions, the Authority obliged the municipality to put an end to the discriminatory situation by developing an action plan detailing where it could provide the tenants of the Numbered Streets with adequate housing in Miskolc. The municipality was required to explain how it would do this and the resources it would use. The Authority also obliged the municipality to prepare another action plan detailing how it would provide housing to those who had already become homeless or faced a direct threat of becoming so due to the municipality's discriminatory practices.

The municipality challenged the court's decision, claiming – among other things – that the ETA's provision mandating the Authority to oblige discriminators to terminate a violation does not allow the Authority to prescribe specific obligations for the party it finds to be at fault. In its Decision No. 6.K.33.048/2015/17, handed down on 25 January 2016,³⁰⁹ the Budapest Administrative and Labour Court rejected the municipality's request. The court pointed out that the statutory possibility of obliging the discriminator to terminate the injurious situation would be devoid of meaning when the violation is an omission if the Authority could not oblige the violator to take specific action. The Authority was thus authorised to oblige the municipality to draft action plans.

³⁰⁸ Equal Treatment Authority, EBH/67/22/2015, 15 July 2015.

³⁰⁹ Budapest Administrative and Labour Court, 6.K.33.048/2015/17, 25 January 2016, available at: <http://birosag.hu/ugyfelkapcsolati-portal/anonim-hatarozatok-tara> using the search function.

The Ombudsman as the Authority's successor has used this authorisation in the series of cases launched *ex officio* into the accessibility of the offices of general practitioners. In those cases where it found that the offices were not accessible, it issued a warning to the municipalities concerned, ordered them to put an end to the violation by obliging the municipality to make the offices accessible by a set deadline and to verify it by submitting to the Ombudsman a certificate issued by a rehabilitation engineer.³¹⁰

(iii) Possibility to appeal (to the body itself or to courts): as explained above, the Ombudsman's decision may not be appealed within a public administrative procedure, but a judicial review of the decision is possible. The lawsuit falls within the scope of authority and exclusive competence of the Budapest Regional Court. An extraordinary review of the regional court's judgment may be requested from the Kúria (Hungary's apex court).

(iv) Enforcement of binding decisions: as explained above (in Section 6.5), while the equality body can relatively easily enforce the fines it imposes on the discriminator, the enforcement of more complex decisions is problematic. This is confirmed in the Ombudsman's annual report for 2024.³¹¹

b) Amicable settlements

As explained in Section 6.1 above, under Article 75 of the GAP, public administrative authorities are obliged to try to resolve the conflict by forging an agreement between the parties, if the case is decided in a hearing. Pursuant to Article 83 of the GAP, if the parties reach an agreement at the hearing or otherwise, and the agreement complies with the laws and the Fundamental Law and contains adequate provisions concerning the deadline for compliance and the bearing of procedural costs, then the proceeding authority approves it and includes it in a formal decision.

As a public administrative body, the equality body is also subject to the above obligations regarding friendly settlements. Under Article 16 of the ETA, the Ombudsman as the equality body is obliged to try to forge a friendly settlement between the parties. Based on the list of cases available on the Ombudsman's website,³¹² it seems that in 2025, out of the 22 published cases, a friendly settlement was reached in 9 cases.

7.9 Procedural safeguards

There are no specific limitations and safeguards regarding the different roles of the equality body, and the Hungarian context is especially complicated in this regard.

Since non-discrimination is a fundamental right enshrined in the Fundamental Law (Hungary's constitution), the Ombudsman was already authorised to examine discrimination complaints under his mandate stemming from the Ombudsman Act even before his office's merger with the Equal Treatment Authority. Under its original mandate, if the examination based on the procedural rules of the law on the Ombudsman Act concludes that there was a violation, the Ombudsman may issue non-binding opinions. After the transition, the complainant now has a choice as to whether they want the Ombudsman to act in its original capacity on the basis of the Ombudsman Act or in its capacity as successor to the Authority on the basis of the ETA.

The law expressly stipulates that it is possible for the Ombudsman to investigate a complaint in its capacity as Ombudsman first, and then, after that examination is

³¹⁰ See for instance: Ombudsman, [EBF-AJBH-242/2024](#), October 2024.

³¹¹ Commissioner for Fundamental Rights (2025), [Beszámoló az alapvető jogok biztosának és felyetteseinek tevékenységéről 2024](#) (Report on the activities of the Commissioner for Fundamental Rights and his Deputies, 2024), p. 90.

³¹² See at: <https://www.ajbh.hu/ebff-jogesetek>.

completed (e.g. with an opinion) also as the successor to the Authority if the complainant requests it or the Ombudsman decides to do so *ex officio* on the basis of the results of the first investigation.

Although in such cases, a different person would act on behalf of the Ombudsman (since the equality body functions to be fulfilled under the ETA are performed by a separate directorate within the Ombudsman's Office), the quasi-judicial role that the Ombudsman's Office plays in the second type of procedure requires qualities (such as impartiality) that are impossible to guarantee if it has already investigated the case and concluded that there has been discrimination. Procedural requirements regarding quasi-judicial procedures would also be compromised. By way of example, under the Ombudsman Act, the Ombudsman may hear any employee of the authority that it is investigating. However, the Act does not prescribe the types of warnings that the code of administrative procedure requires when an administrative authority hears a witness. This can cause significant problems if the Ombudsman hears in the quasi-judicial follow-up procedure a witness who was already heard in the first examination and was not duly warned (even if the earlier hearing could not formally be taken into account during the hearing in the follow-up procedure).

These concerns were mostly shared by the European Commission for Democracy through Law (Venice Commission) of the Council of Europe, which examined the transfer of the Authority's tasks and powers based on a request from the Parliamentary Assembly of the Council of Europe. In its opinion,³¹³ the Venice Commission elaborated on the procedural concerns stemming from the dual nature of the Ombudsman's procedure, depending on the capacity in which he acts in a case of discrimination:

'Finally, the new legislation enables the Commissioner (i) to investigate a complaint first in his capacity as Ombudsman, and then, after that examination is completed (ii) to act as the successor of the ETA if the complainant requests or the Commissioner decides so *ex officio* (Section 39/M(6)). The Venice Commission observes in this respect that the Commissioner's quasi-judicial role in the second type of proceedings requires an impartiality that he/she is unlikely to guarantee after having already examined the case under the Commissioner Act'.

The Commission held that the 'collision of the competences already enjoyed by the Commissioner under Act CXI [of 2011] and those acquired in his/her capacity as successor of the Equal Treatment Authority, is a clear demonstration of a risk that may undermine the effectiveness of the work in the field of promoting equality and combating discrimination'.

With regard to the relationship between investigations and litigation, the following issue is raised. If the Ombudsman as equality body starts an investigation (upon request or *ex officio*), it must finish that investigation with a formal decision concluding that (i) there has been no violation of the principle of equal treatment; or (ii) there has been a violation of the principle of equal treatment (in which case the Ombudsman can also impose sanctions, including a fine). Alternatively, if the parties reach a friendly settlement and it meets the requirements of the law, the Ombudsman as the equality body approves the settlement with a formal decision. These decisions are open to judicial review, so the parties concerned may challenge them before the Budapest Regional Court (which has exclusive competence for such cases). In this case, the equality body becomes a litigant party (as the defendant in the case), and will obviously have to rely on the information gathered in the course of the investigation (as a conclusion to which it has delivered the decision that is the subject of the judicial review).

³¹³ Venice Commission (2021), *Hungary – Opinion on the amendments to the Act on Equal Treatment and Promotion of Equal Opportunities and to the Act on the Commissioner for Fundamental Rights as adopted by the Hungarian parliament in December 2020*, adopted by the Venice Commission at its 128th Plenary Session, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2021\)034-eu](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2021)034-eu).

The equality body can be a litigant in the position of the claimant when it launches an *actio popularis* lawsuit. However, based on the above, it seems fair to conclude that the equality body cannot end up in the position whereby it uses information gathered through its own investigation in a lawsuit that it launches as an *actio popularis* litigant, since all of its investigations (launched upon request or *ex officio*) must end in a formal decision, so it cannot simply drop a case and then take it up as an *actio popularis* lawsuit that it brings before a court.

7.10 Data collection by the designated body

a) Registration of complaints and decisions

In Hungary, the designated body registers the number of complaints of discrimination made and/or decisions (by ground, field, type of discrimination, etc). These data are available to the public.

According to the Ombudsman's latest available report, the 2024 annual report, the equality body processed 449 cases in 2024. The Ombudsman reached 178 administrative decisions: 98 inadmissibility decisions, 73 substantive decisions (with 22 concluding that discrimination had taken place) and 7 approvals of friendly settlement. Out of the 22 cases where discrimination had occurred, 8 concerned social protection and healthcare, 6 concerned goods and services, 2 concerned employment, 4 concerned education, and 2 concerned miscellaneous areas. Out of these 22 cases, 20 concerned disability, 1 concerned motherhood and 1 concerned age.³¹⁴ (It is worth calling attention to the complete lack of 'successful' complaints concerning racial or ethnic origin despite the fact that the report by the Ombudsman's Minorities Deputy makes the existence of discrimination in education, housing and healthcare very clear, and also to the disappearance of cases related to sexual orientation despite the situation of the LGBTIQ community in Hungary.)

Trends can be seen in the table below (it must be noted that no data are available for 2020 because, in 2021, when the Ombudsman took over the Authority's mandate, the Ombudsman chose not to produce a report on its predecessor's activities in 2020).

Caseload of the equality body, 2007-2024³¹⁵

Year	Number of complaints	Administrative decisions	Decisions establishing discrimination	Friendly settlements
2007	756	159	29	3
2008	1 153	256	37	23
2009	1 087	273	48	18
2010	1 373	377	40	36

³¹⁴ Commissioner for Fundamental Rights (2025), [Beszámoló az alapvető jogok biztosának és felyetteseinek tevékenységéről 2024](#) (Report on the activities of the Commissioner for Fundamental Rights and his Deputies, 2024), p. 86.

³¹⁵ Source: Annual reports of the Equal Treatment Authority, which used to be available on the website of the Authority. As explained above, the Ombudsman made these unavailable six months after taking over the Authority's mandate. The source of the data for 2021: Commissioner for Fundamental Rights (2022), [Beszámoló az alapvető jogok biztosának és felyetteseinek tevékenységéről 2021](#) (Report on the activities of the Commissioner for Fundamental Rights and his Deputies, 2021), p. 97. The source of the data for 2022: Commissioner for Fundamental Rights (2023), [Beszámoló az alapvető jogok biztosának és felyetteseinek tevékenységéről 2022](#) (Report on the activities of the Commissioner for Fundamental Rights and his Deputies, 2022), p. 106. The source of the data for 2023: Commissioner for Fundamental Rights (2024), [Beszámoló az alapvető jogok biztosának és felyetteseinek tevékenységéről 2023](#) (Report on the activities of the Commissioner for Fundamental Rights and his Deputies, 2023), p. 109. The source of the data for 2024: Commissioner for Fundamental Rights (2025), [Beszámoló az alapvető jogok biztosának és felyetteseinek tevékenységéről 2024](#) (Report on the activities of the Commissioner for Fundamental Rights and his Deputies, 2024), p. 86.

2011	1 014	359	42	39
2012	2 772	213	31	28
2013	1 496	345	21	30
2014	1 005	251	23	27
2015	884	240	33	17
2016	1 017	278	31	28
2017	1 288	285	30	27
2018	786	315	36	30
2019	868	308	44	22
2021	462	169	26	8
2022	463	180	23	7
2023	490	164	21	11
2024	449	178	22	7

b) Equality data collection

In Hungary, the designated body does not collect general equality data, nor does it have access to such data collected by others.

7.11 Roma and Travellers

As outlined above, the equality body is an administrative decision-making body that investigates complaints, hands down decisions and imposes sanctions on the perpetrators. It does not set its own agenda or priority issues, but rather acts reactively – in accordance with the types of complaints it receives. This prevents the Ombudsman from being consistent in approach within its equality mandate (whereas in the traditional mandate the Ombudsman can take a consistent approach and implement it through the Minorities Deputy, who, during her mandate, which ended in November 2025, conducted targeted investigations into certain systemic problems concerning the Roma minority).

However, it must also be pointed out that due to the structural characteristics of discrimination in Hungary, a large proportion of the Equal Treatment Authority's complainants came from the Roma minority. For instance, in 2019, racial or ethnic origin was the third most frequently occurring protected ground among the complainants (in 74 cases the alleged ground for discrimination was disability, in 46 cases it was health status, and in 44 cases it was ethnicity). Out of the 44 cases where discrimination was found to have occurred, health status and disability were the grounds in a total of 19 cases (10 and 9, respectively), whereas the discrimination was based on affiliation with a national minority in 7 cases.³¹⁶

Since the 2021–2024 annual reports of the Ombudsman do not contain a distribution of the complaints broken down on the basis of the ground concerned, it is not possible to tell whether this trend continued after the dissolution of the Equal Treatment Authority.

Some of the investigations launched *ex officio* by the Authority concerned Roma persons (for instance, the Rimóc 'bike' case concerning disproportionate fining practices applied by the local police in relation to petty offences committed by cyclists). In 2021, the Minorities Deputy conducted a very thorough *ex officio* examination into the educational situation of Roma children in Gyöngyöspata, as a result of which she issued a 70-page position paper outlining the systemic problems and offering solutions.³¹⁷ In 2023, an examination was

³¹⁶ The source of these statistics was the Authority's website that was made unavailable by the Ombudsman six months after taking over the Authority's mandate.

³¹⁷ Deputy Ombudsman Responsible for the Rights of National Minorities Living in Hungary (2021), 5/2021. *számú elvi állásfoglalás a gyöngyöspatai roma gyermekek nevelési-oktatási helyzetével kapcsolatban feltárt egyedi és általános problémákról* (Position Paper No. 5/2021 on the Individual and General Problems Revealed Regarding the Education Situation of the Roma Children in Gyöngyöspata, hereafter: Position

conducted into the relationship between skills-based assignment to classes and the segregation of Roma pupils,³¹⁸ and in 2024, the Minorities Deputy concluded an investigation into how English courses organised in kindergarten by profit-oriented enterprises can lead to segregation in elementary school.³¹⁹ In 2025, the Minorities Deputy carried out examinations into the role of denominational schools in the segregation of Roma pupils and issued a Public Warning regarding the indirectly discriminatory impact of the law on local identity on Roma communities. These examinations, however, were not carried out within the Ombudsman's mandate as the successor to the Equal Treatment Authority, but within its original mandate. Furthermore, as explained above, the last two of these reports have been removed from the Ombudsman's website, while the others are very difficult to access through the website (see section 7.2).

Paper No. 5/2021), 5 November 2021, <https://www.aibh.hu/documents/2657648/adba0e8d-7646-7c6d-d13d-2eb39fa4e847>.

³¹⁸ Deputy Ombudsman Responsible for the Rights of National Minorities Living in Hungary (2023), [3/2023. számú elvi állásfoglalás a képesség szerinti osztályba sorolás és a roma gyermekek oktatási szegregációjának összefüggéseiről, valamint az oktatási inklúzió szükségességéről](#) (Position Paper No. 3/2023 on the Relationship Between Skills-based Class Assignment and the Educational Segregation of Roma Pupils).

³¹⁹ Deputy Ombudsman Responsible for the Rights of National Minorities Living in Hungary (2024), [1/2024. számú elvi állásfoglalás az óvodai költségtérítéssel foglalkozások, valamint az iskolai tagozatok szegregációs kockázatairól](#) (Position Paper No. 1/2024 on the Segregational Risks of Fee-based Courses in kindergartens and Specialised Educational Groups in Elementary Schools).

8 IMPLEMENTATION ISSUES

8.1 Dissemination of information, dialogue with NGOs and between social partners

a) Dissemination of information about legal protection against discrimination

The Equal Treatment Authority, which as a Government agency worked under the supervision of the Government, was active in disseminating information about the legal protection against discrimination. The Authority's website (www.egyenlobanasmod.hu) contained a lot of information on the issue, including the relevant legislation, a brief and clearly formulated description of the Authority's scope of competence and the Authority's case law. Unfortunately, the website was made unavailable shortly after the Authority's merger with the Ombudsman's Office.

The Ombudsman's website also contains information about the ETA and the Ombudsman's procedure within his equality mandate. However, this is mostly confined to a repetition of the text of the law, and is therefore not sufficiently accessible. In his response No. AJB-812-2/2023 provided on 10 February 2023 to the Háltér Society's freedom of information request, the Ombudsman stated that he had 'future plans' to publish materials that raise awareness among the relevant social groups about the Ombudsman's activities in his special mandates (including obviously the equality mandate), but there have been no such publications ever since, which is not unexpected in light of the fact that only two employees work on communication within the Ombudsman's Office, according to the same FOI response.

b) Measures to encourage dialogue with NGOs with a view to promoting the principle of equal treatment

Mention may be made of the working groups of the Human Rights Roundtable established by the Government in 2012 to discuss the legal, practical and policy issues concerning members of vulnerable groups. However, the working groups meet rather infrequently, and criticism has been voiced regarding the merits of the consultations, too.

The infrequency of the meetings is substantiated by the Government website dedicated to the work of the human rights working groups.³²⁰ For instance, based on the minutes available on the website, between 1 January 2022 and 31 December 2024, both the working group on Roma and the working group on the rights of elderly people met only twice, and the working group on Roma issues did not meet in 2025 at all, while the working group on the elderly met only once (in June 2025).

Under Article 39/P of the Ombudsman Act, within the context of his mandate as the independent mechanism established under the CRPD, the Ombudsman must set up an Advisory Board on Disability Affairs from representatives of disability NGOs and persons having outstanding theoretical knowledge or practical experience regarding disability rights. The Advisory Board has had four meetings so far: an inaugural session on 3 October 2023, and three subsequent meetings on 15 November 2023, 11 June 2024 and 11 November 2024. Based on the Ombudsman's website, it seems that no session took place in 2025.³²¹ In addition, as the Advisory Board's meetings are not public, and not even summary records of the meetings are available on the Ombudsman's website (only the invitations and the agendas of the meetings are available), it is not possible to form an opinion on how effective the Board is in conducting a meaningful dialogue in the area of disability rights.

³²⁰ Human rights working groups: <https://emberijogok.kormany.hu/emberi-jogi-munkacsoport>.

³²¹ See <https://www.ajbh.hu/fogyatekossagugy-fogyatekossagugyi-tanacsado-testulet-dokumentumai>.

- c) Measures to promote dialogue between social partners to give effect to the principle of equal treatment within workplace practices, codes of practice and workforce monitoring

There are no systematic measures to promote dialogue between social partners to give effect to the principle of equal treatment within workplace practices, codes of practice and workforce monitoring.

- d) Addressing the situation of Roma and Travellers

Several different bodies and positions have been established with a mandate in relation to Roma inclusion. In 2010, a Secretariat of State for Social Inclusion was set up with responsibility for the social inclusion of the Roma community. Until 30 April 2019, it operated within the Ministry of Human Capacities, but as of 1 May 2019 it was transferred to the Ministry of the Interior with the reasoning that the municipal councils can be very important agents of cooperation, and the affairs related to municipal self-governance belong under the responsibility of the Ministry of the Interior.³²²

Two special commissioners were also appointed: one of them (appointed in 2022) is responsible for coordinating the preparation and implementation of the 'diagnosis-based' social integration of Roma people (i.e. the complex programme aimed at promoting the catching up of the 300 most disadvantaged Hungarian villages).³²³ The second commissioner (also appointed in 2022) was responsible for – among other things – coordinating all governmental activities that are related to the Roma community and require social consultation, and maintaining contact with the national and local Roma minority self-governments.³²⁴ The appointment of this latter commissioner was withdrawn in August 2024, and the person holding the position was appointed to be Secretary of State Responsible for Societal Opportunities and Roma Relations within the Ministry of Interior.³²⁵

The Roma Coordination Council was established by Government Resolution 1102/2011,³²⁶ and is tasked with monitoring the progress of the inclusion policies. Its 33 members include the Minister of the Interior, the two special commissioners, the Ombudsman's Minority Deputy, the President of the National Roma Self-Government, and representatives of certain denominations, employers' and employees' unions and the Hungarian Academy of Sciences. The representative of the Equal Treatment Directorate of the Ombudsman's Office is a permanent invitee to the Council's sessions.

³²² Instruction 12/2022. (VI. 28.) of the Minister of Interior on the Rules of Organisation and Operation of the Ministry of Interior (12/2022. (VI. 28.) *BM utasítás a Belügyminisztérium Szervezeti és Működési Szabályzatáról*), 28 June 2022, <https://njt.hu/jogszabaly/2022-12-B0-0A>, Article 46/A.

³²³ Instruction 2/2022 of the Prime Minister on the appointment and the tasks of the Prime Ministerial Commissioner responsible for the implementation of the diagnosis-based social integration strategy (2/2022 (VI. 7.) *ME utasítás a diagnózis alapú felzárkózási stratégia végrehajtásáért felelős miniszterelnöki biztos kinevezéséről és feladatairól*, <https://magyarkozlony.hu/dokumentumok/cdf0ade3374965d6ae6a2a17f0bee2465922a7cc/letoltes>, <http://www.kozlonyok.hu/kozlonyok/index.php?m=0&p=kozlart&ev=2019&szam=24&k=12>.

³²⁴ Government Resolution 1297/2022 on the appointment and the tasks of the Government Commissioner Responsible for Roma Relations (1297/2022. (VI. 17.) *Korm. határozat a roma kapcsolatokért felelős kormánybiztos kinevezéséről és feladatairól*, <https://magyarkozlony.hu/dokumentumok/6c8ecece3191d585db7347cdf5eff18aa5c9c98c/letoltes>.

³²⁵ See: <https://magyarkozlony.hu/dokumentumok/432fe93ae8e3fb7b292894279e1d1e44d6d15395/megtekintes>. See also: Instruction 12/2022. (VI. 28.) of the Minister of Interior on the Rules of Organisation and Operation of the Ministry of Interior (12/2022. (VI. 28.) *BM utasítás a Belügyminisztérium Szervezeti és Működési Szabályzatáról*), 28 June 2022, <https://njt.hu/jogszabaly/2022-12-B0-0A>, Article 46/A.

³²⁶ Government Resolution 1102/2011 on establishing the Roma Coordination Council (1102/2011. (IV. 15.) *Korm. határozat a Roma Koordinációs Tanács (ROK-T) létrehozásáról*), 15 April 2011, <https://net.jogtar.hu/jogszabaly?docid=A11H1102.KOR&txtreferer=00000003.TXT>.

Another body is the Inter-Ministerial Committee for the Creation of Societal Opportunities and Roma Affairs, which was set up by Government Resolution 1412/2024³²⁷ with the purpose of supporting government activities aimed at improving the living conditions and societal position of people in disadvantaged situations and promoting their social integration, as well as supporting the implementation of those governmental tasks related to Roma affairs that stem from Hungary's membership in the European Union. The committee consists of representatives of the relevant ministries and is chaired by the Secretary of State Responsible for Societal Opportunities and Roma Relations within the Ministry of Interior.

The above bodies and functionaries have important roles to play regarding the inclusion of the Roma community. According to an independent monitoring report prepared by civil society organisations on the previous inclusion strategy, 'it is fair to say that affairs of Roma integration have a proper position in governmental structures. According to the interviewed staff members of the Ministry, the decision-making mechanisms need some improvement, but the structure itself provides proper support to issues at hand, all the relevant questions could have significant high-level policy support'.³²⁸

However, none of these bodies has a very specific, expressly defined role regarding the fight against racism and discrimination. As the same civil society monitoring report states, 'there is no public body specifically tasked to analyse and address antigypsyism in Hungary. Two public bodies that have relevant roles though are the ombudsman for the rights of national minorities and the Roma national self-government. [...] Theoretically the [Roma] national self-government could have a major role in addressing prejudices. Unfortunately, this was not set as an objective when national self-governments were set up in Hungary. The Roma national self-government has had no memorable public activity to address antigypsyism.'³²⁹

8.2 Measures to ensure compliance with the principle of equal treatment (Article 14 Directive 2000/43, Article 16 Directive 2000/78)

a) Compliance of national legislation (Articles 14(a) and 16(a))

Hungary has taken the necessary measures to ensure that any laws, regulations and administrative provisions contrary to the principle of equal treatment are abolished, although there are certain areas where, in the author's opinion, full compliance with the *acquis* has not been achieved (for details, see sections 11.1 and 11.2).

When adopted in 2003, the ETA itself (Articles 37–62) amended a number of existing laws. Furthermore, as a result of the Government's dialogue with the EU Commission, the ETA

³²⁷ Government Resolution 1412/2024 on establishing the Inter-Ministerial Committee for the Creation of Societal Opportunities and Roma Affairs (1412/2024. (XII. 18.) Korm. határozat - a Társadalmi Esélyteremtési és Cigányügyi Tárcaközi Bizottság létrehozásáról), 18 December 2024, <https://njt.hu/jogszabaly/2024-1412-30-22>.

³²⁸ Association of Roma Minority Representatives and Advocates of Nógrád County, Idetartozunk Association, Romaversitas Foundation, UCCU Roma Informal Foundation, Khetanipe Association, Eger Foundation of SZETA, Pro Cserehát Association, Motiváció Educational Association, National Association of Roma Police Officers, Együtt Közösen Egymásért Association, Autonómia Foundation (2018), *Civil society monitoring report on implementation of the national Roma integration strategies in Hungary. Focusing on structural and horizontal preconditions for successful implementation of the strategy*, Brussels, Directorate-General for Justice and Consumers, pp. 7-11, <http://autonomia.hu/wp-content/uploads/2018/07/rcm-civil-society-monitoring-report-1-hungary-2017.pdf>.

³²⁹ Association of Roma Minority Representatives and Advocates of Nógrád County, Idetartozunk Association, Romaversitas Foundation, UCCU Roma Informal Foundation, Khetanipe Association, Eger Foundation of SZETA, Pro Cserehát Association, Motiváció Educational Association, National Association of Roma Police Officers, Együtt Közösen Egymásért Association, Autonómia Foundation (2018), *Civil society monitoring report on implementation of the national Roma integration strategies in Hungary. Focusing on structural and horizontal preconditions for successful implementation of the strategy*, Brussels, Directorate-General for Justice and Consumers, pp. 38, <http://autonomia.hu/wp-content/uploads/2018/07/rcm-civil-society-monitoring-report-1-hungary-2017.pdf>.

and other laws were also amended on a number of further occasions so that they would be in line with the non-discrimination *acquis*.

As a result, in the areas covered by the directives, most legislation is in line with the principle of equal treatment. There are a number of statutes with regard to which the infringement of the principle of equal treatment may be argued.

Municipal councils increasingly use their statutory authorisation for adopting decrees governing certain aspects of local societal life to pass sometimes overtly discriminatory legislation in order to gain – real or assumed – political popularity among the majority population. While some of the most conspicuously unlawful decrees raise wider (sometimes nationwide) attention and the remedial forums eliminate these laws, it seems highly likely that there are numerous such decrees and provisions in smaller settlements where the local minority communities' ability to enforce their rights is limited. As explained in section 3.2.9, a whole new series of problems regarding discriminatory municipal decrees emerged in 2025 as a result of the Act on the Protection of Local Identity. These have not yet been appropriately addressed by the competent authorities.

The mechanism to eliminate laws that are contrary to the principle of equal treatment is in place. Under the provisions of Act CLI of 2011 on the Constitutional Court, the body is entitled to subsequently examine the constitutionality of any legal provision (with the exception of certain provisions relating to the central budget and taxes). Any law that is contrary to the constitutional non-discrimination clause shall be unconstitutional. Under Article 26, any person whose constitutional rights (including the right to non-discrimination) have been violated because a court has applied an unconstitutional norm, or applied a norm in an unconstitutional manner, has the right to petition (within 60 days from the date of the final and binding decision is served to him or her) the Constitutional Court and to ask the court to abolish the provision or quash the judicial decision.

If there is no judicial remedy against the particular law, it is also possible to petition the Constitutional Court within 180 days of the coming into force of the norm in question. This limitation is highly problematic, as it does not allow the individual to request a constitutional review if they suffer the consequences of the unconstitutional legislation more than 180 days after the law comes into effect. In such cases, the Ombudsman can be requested to turn to the Constitutional Court (as the Ombudsman can request the constitutional review of any law irrespective of when it came into effect). However, the Ombudsman has a discretionary right to decide whether or not to comply with such a request.

The unconstitutional statute loses effect on the day of the publication of the Constitutional Court's decision and from that day on, it may not be applied. In certain cases, the Constitutional Court may abolish norms retroactively or *pro futuro*, leaving time for the legislature to amend them or adopt new legislation.

There is no publicly accessible information on whether and how legislative drafts are vetted for compliance with the EU's non-discrimination *acquis* or potential discriminatory impact. The frequent disregard for the rules of public consultation about draft laws, however, certainly prevents interested parties (NGOs, academia, social partners, etc.) from monitoring legislation from this point of view and from channelling their non-discrimination related comments, ideas or concerns into the legislative process. In principle, public consultation is obligatory for laws prepared by ministers, and involves publishing the bills online before they are submitted to the Parliament for the public to comment upon. Despite legislative amendments adopted in October 2022 with the aim of complying with EU requirements regarding public consultation in the legislative process, there are still many examples of legislation for which no consultation is carried out; legislative proposals that are clearly part of Government policy are introduced to the Parliament via governing majority MPs (in which case consultation is not mandatory); very tight deadlines for

commenting; or rejecting or ignoring comments from the public without any substantive arguments being made as to the reasons why.³³⁰

b) Compliance of other rules/clauses (Articles 14(b) and 16(b))

Hungary has taken the necessary measures to ensure that contracts, collective agreements, internal rules of businesses and the rules governing independent occupations, professions, workers' associations or employers' associations that are contrary to the principle of equal treatment can be declared null and void.

Under Articles 6:95 and 6:96 of the Civil Code, contracts that are contrary to a law, or are concluded with the intention of circumventing a legal obligation shall be deemed null and void. Contracts that are manifestly immoral are also deemed null and void.

Furthermore, under Article 27 of the Labour Code, an agreement (individual or collective) that violates labour law regulations shall be deemed null and void. If annulled or successfully contested, the agreement shall be deemed invalid (Article 28). If invalidity results in damages, these shall be paid (Article 30).

Furthermore, as outlined in relation to the personal scope of the ETA, public foundations and public associations and organisations representing employees' and employers' interests are obliged to comply with the requirement of equal treatment. If their internal rules violate this principle, a complaint may be filed with the equality body. However, the internal operations of other associations and legal entities – with the exception of establishing and terminating membership – are expressly exempted by the ETA from the requirement of equal treatment, so if such rules are contrary to the principle of non-discrimination, they may not be challenged through legal means.

³³⁰ For more information, see: Hungarian Helsinki Committee et al (2024), *Contributions of Hungarian CSOs to the European Commission's Rule of Law Report*, available at: https://helsinki.hu/en/wp-content/uploads/sites/2/2024/01/HUN_CS0_contribution_EC_RoL_Report_2024.pdf, pp. 70-72.

9 COORDINATION AT NATIONAL LEVEL

9.1 Coordination at the governmental level

The Ministry of Justice, the Ministry of the Interior and the Ombudsman are primarily responsible for dealing with or coordinating issues regarding anti-discrimination on the grounds covered by this report.

Several different bodies have also been established with the aim of discussing and coordinating issues and activities falling under the scope of this report. In addition to bodies vested with tasks pertaining to Roma inclusion (see Section 8.2), mention must also be made of the National Disability Council (NDC), which was set up by Government Resolution 1330/2013.³³¹ Out of the 15 NDC members, only the chair represents the Government, whilst the other 14 members are nominated by the largest disability organisations or by an alliance of smaller disability organisations. The NDC is also a consultative forum; it provides the Government and the minister responsible for promoting equal opportunities with advice. The Government Resolution does not envisage any consequence or sanctions if the NDC's advice is not taken into account. The NDC also serves as the focal point of the Committee on the Rights of Persons with Disabilities.

9.2 National Strategies and action plans

The national strategy for social inclusion adopted for the period 2021-2030 (Hungarian National Strategy for Social Inclusion 2030)³³² touches upon issues related to discrimination. Its core objective is 'to reduce poverty and the differences that exist between the Roma and non-Roma population regarding the most important indicators of indigence and social mobility'.³³³ The strategy covers seven thematic areas: (i) birth and childhood; (ii) education from kindergarten to university; (iii) youth and family matters; (iv) employment; (v) regional inequalities and housing; (vi) healthcare; (vii) Roma identity, community building and the enforcement of rights.

The strategy is formulated in a rather general manner; it is described as an 'umbrella strategy' outlining action to be taken in very broad terms and requiring further decisions to narrow down who is to do what in order for those actions to be actually realised. The description of the context regarding most areas concerned by the strategy is sound and mentions discrimination as one of the issues contributing to the disadvantaged, deprived situation of the Roma. However, when it comes to the listing of the challenges and the proposed directions of intervention, discrimination is either not addressed or addressed in very broad terms. While some of the proposed lines of action have the potential to address certain systemic elements of the discrimination that the Roma face in Hungary, the commitments in the strategy are soft and very broad, and therefore the efficacy of the strategy depends on how those are taken further by the persons and bodies responsible for the individual areas.

There is also an unevenness among the different areas and parts of the strategy as to the sensitivity to the issue of discrimination. For instance, the section on the labour market, acknowledges the need to systematically address discrimination in employment, whereas the section on healthcare does not even mention discrimination as a reason for the acknowledged situation that the life expectancy of the Roma is much lower than that of the majority population.

³³¹ Government Resolution on the National Disability Council 1330/2013 (1330/2013. (VI. 13.) Korm. határozat az Országos Foglalkoztatási Tanácsról), 13 June 2013, <https://net.jogtar.hu/jogszabaly?docid=A13H1330.KOR&txtreferer=A1000043.TV>.

³³² Government of Hungary (2021), Hungarian National Strategy for Social Inclusion 2030 (*Magyar Nemzeti Társadalmi Felzárkózási Stratégia 2030*), <https://szocialisportal.hu/wp-content/uploads/2023/03/MNTFS2030.pdf>.

³³³ Government of Hungary (2021), Hungarian National Strategy for Social Inclusion 2030 (*Magyar Nemzeti Társadalmi Felzárkózási Stratégia 2030*), pp. 5-6.

In 2020, a platform of NGOs provided comments and suggestions for the Hungarian National Strategy for Social Inclusion 2030.³³⁴ While there was no meaningful and transparent consultation with civil society regarding the strategy before the first draft was published, eventually some of their suggestions (e.g. references to the majority population's responsibility for integration) were included in the adopted document.

In the area of disability, the framework for strategic planning is Decision 15/2015 (IV. 7.) OGY of the National Assembly on the National Disability Programme.³³⁵ The Decision calls on the Government to adopt shorter-period action plans with the objective of implementing the programme. The most recent action plan (for 2024–2025) was adopted in June 2024.³³⁶ The action plan prescribes several measures to be taken in the following areas: (i) social inclusion; (ii) healthcare; (iii) early development, education and training; (iv) employment; (v) social services; (vi) complex rehabilitation; (vii) independent living; (viii) family matters; (ix) transportation; (x) sports, culture and tourism; (xi) groups with multiple disadvantages (such as women and children with disabilities); (xii) accessibility; (xiii) the institutional framework for the implementation of the action plan. Under this latter heading, the plan envisages different measures aimed at complying with the requirements of Article 33 of the CRPD.

As it can be seen from the above list, the idea of intersectionality appears in the document, as there is a separate section on groups with multiple disadvantages. However, this section is not particularly detailed and does not go beyond the obligation to map the issues that may arise in this regard. The action plan sets forth the following in this respect:

'With the participation of the interest representation organisations of people with disabilities, a working group shall be set up to carry out a review of services available to women with disabilities, persons with multiple disabilities and persons with autism. The aim of the working group is to review how these areas operate, to map the missing areas and to formulate concrete recommendations for development and measures.'

The deadline for the task is September 2025, and the action plan envisages that no additional financial resources would be needed for carrying it out. (It must be noted that the deadlines for the realisation of the action plan were postponed in November 2025: measures that should have been completed by 31 December 2025 now have a new deadline of 30 September 2026.)

Hungary's National Strategy against Anti-Semitism was adopted on 20 June 2024.³³⁷ The strategy is mainly of a descriptive nature, taking stock of the steps that have already been made to combat anti-Semitism and promote Jewish life, and does not focus on discrimination: discrimination is mentioned only in the context of intersectionality (see below) and the training provided to law enforcement personnel ('In relation to discrimination, a training module titled "The recognition and addressing of biases" is

³³⁴ The following Roma and non-Roma organisations focusing on integration took part in the work: Polgár Foundation, 1Hungary Initiative, Bagázs Public Interest Association, InDaHouse Hungary Association, Romaversitas Foundation, Give Kids a Chance Association, Partners Hungary Foundation, Számá Dá Noj Association, Digi Tanoda Foundation, We Belong Here Association, and Autonómia Foundation.

³³⁵ Decision 15/2015 (IV. 7.) OGY of the National Assembly on the National Disability Programme (15/2015. (IV. 7.) OGY határozat - az Országos Fogyatékosügyei Programról (2015-2025.)), 7 April 2015, <https://mkogy.jogtar.hu/jogszabaly?docid=a15h0015.OGY>.

³³⁶ Government Resolution 1186/2024. (IV. 28.) on the action plan regarding the implementation of the National Disability Programme for the years 2024-2025 (1186/2024. (VI. 28.) Korm. határozat az Országos Fogyatékosügyei Program végrehajtásának 2024-2025. évekre vonatkozó Intézkedési Tervéről), 28 June 2024, <https://njt.hu/jogszabaly/2024-1189-30-22>.

³³⁷ Government Decree 1176/2024 on the adoption on the national strategy against anti-Semitism (1176/2024. (VI. 20.) Korm. határozat az antiszemitizmus elleni nemzeti stratégia elfogadásáról), 20 June 2024, <https://www.kozlonyok.hu/nkonline/index.php?menuindex=200&pageindex=kozltart&ev=2024&szam=67>. The document is available at: <https://cdn.kormany.hu/uploads/document/1/17/17c/17c164c9248ed4fcf2912ffaf7e8825ff822b60a.pdf>.

available to high-ranking law enforcement officers [...] with the aim of enabling them to recognise their own biases and address those in order to perform their tasks in a discrimination-free manner’ – pages 37–38 of the strategy).

The strategy contains certain ‘undertakings’ by the Government, but the majority of these are related to cultural, educational and religious aspects, and lack any concreteness (e.g. in relation to the support of Jewish culture, the strategy states that ‘in the course of the planning of the future projects of the [cultural] field, the cultural branch [of the Government] takes into account the aspects of the [...] strategy and the goals set therein, and is ready to flexibly promote with the available intellectual and financial means and with the cooperation and alliance of other branches the realisation of the strategic goals – pages 94 and 95 of the strategy).

Intersectionality is mentioned in relation to the assessment of the special needs of hate crime victims. In this context, the strategy emphasises that ‘bias-based violence and discrimination are often complex, multi-layered phenomena, in which two or more biases are intertwined, and each case has its own specific dimensions. Intersectionality may help in identifying the [...] specific needs of victims of hate crimes. [...] All the forms of inequality reinforce each other, so they must be analysed and addressed together in order to prevent one form of inequality from reinforcing the other. Intersectionality may increase the risk of victimisation and re-victimisation, and may reduce the likelihood of the victims reporting hate-motivated incidents committed against them’ (page 41 of the strategy). What this means in practice is not specified by the strategy in any way.

There is no national plan on LGBTIQ equality in Hungary. There is no specific anti-racism plan either, while anti-Roma racism and discrimination are to some extent addressed by the Hungarian National Strategy for Social Inclusion.

10 CURRENT BEST PRACTICES

- *Testing by the equality body*: NGOs and the equality body (based on a specific statutory authorisation in the case of the latter) use testing to establish discrimination in cases that allow for this type of evidence to be gathered.
- *Strategic use of actio popularis litigation by NGOs to address systemic instances of discrimination*: the possibility offered by the Hungarian legal system has been used by several NGOs in very different fields of life to reach strategic goals, for instance, by Háttér Association to challenge a denominational university declaration that 'the church may not approve of [...] the education, recruitment and employment of pastors and teachers of religion who conduct or promote a homosexual way of life';³³⁸ by the Chance for Children Foundation to challenge the segregation of Roma children in education;³³⁹ by the Hungarian Helsinki Committee to challenge as harassment the racist speech and writing of a local mayor;³⁴⁰ by the Hungarian Civil Liberties Union to challenge an advertisement published by the Government presenting immigrants of Muslim background as a threat to be stopped,³⁴¹ or most recently by the Validity Foundation to challenge squalid conditions and poor treatment in a social care home.³⁴²
- *Evolving jurisprudence concerning ways to end systemic discrimination*: following the Kúria's Judgment No. Pfv.IV.20.085/2017³⁴³ upholding a judicial order to close down a segregated school, Hungarian courts started to move away from the interpretation that they may only declare the existence of systemic discrimination and order in general terms – without specifying the 'how' – that the respondent should put an end to the discrimination. In an increasing number of cases, courts started to prescribe specific measures to be taken in order to enforce the requirement of equal treatment. This trend may come to a halt due to a controversial 2023 decision of the Kúria regarding the non-applicability of civil law regarding discriminatory omissions of state bodies.³⁴⁴ However, it remains to be seen how the jurisprudence will develop in the future.
- *Artificial intelligence*: there is currently no best practice regarding the use of artificial intelligence or combatting discrimination stemming from the use of AI systems in Hungary.

³³⁸ See: Supreme Court, Pfv.IV.20.678/2005/5, 8 June 2005, available at:

http://epa.oszk.hu/02300/02334/00020/pdf/EPA02334_Fundamentum_2005_03_100-104.pdf.

³³⁹ See, for instance: Pécs Appeals Court, Pf.III.20.004/2016/4., 13 October 2016, available at:

https://eakta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=P%C3%A9csi%20%C3%8Dt%C3%A9l%C5%91t%C3%A1bla&ugyszam=Pf.20004/2016/4&azonosito=AHK4T_19763361.

³⁴⁰ See: Budapest Administrative and Labour Court, 20.K.33988/2013/10, 17 June 2014,

https://eakta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=F%C5%91v%C3%A1rosi%20K%C3%B6zigazgat%C3%A1si%20%C3%A9s%20Munka%C3%BCqyi%20B%C3%Adr%C3%B3s%C3%A1q&ugyszam=K.33988/2013/10&azonosito=AHK4T_15847579.

³⁴¹ Commissioner for Fundamental Rights (2024), Beszámoló az alapvető jogok biztosának és helyetteseinek tevékenységéről 2023 (Report on the activities of the Commissioner for Fundamental Rights and his Deputies, 2023), pp. 111–113.

³⁴² Budapest Appeals Court, Judgment No. 2.Pf.20.235/2024/9, 12 September 2024,

<https://eakta.birosag.hu/anonimizalt-hatarozat-pdf/?birosagName=F%C5%91v%C3%A1rosi%20%C3%8Dt%C3%A9l%C5%91t%C3%A1bla&ugyszam=Pf.20235/2024/9&azonosito=193340a9-7a9f-4ece-89bd-38c151ca2fb0>.

³⁴³ Kúria, Pfv.IV.20.085/2017/9., 4 October 2017, http://cfcf.hu/sites/default/files/Kaposvar2_Kuria.pdf.

³⁴⁴ See: EELN (2023) 'Flash report: Hungary', 8 August 2023: <https://www.equalitylaw.eu/downloads/5907-apex-court-decision-regarding-state-bodies-lack-of-liability-for-failure-to-provide-supported-housing-for-people-with-disabilities-despite-statutory-obligation>.

11 SENSITIVE OR CONTROVERSIAL ISSUES³⁴⁵

11.1 Potential breaches of the directives at the national level

Although the Commission closed the infringement procedures launched against Hungary for the ETA's non-compliance with Directives 2000/43 and 2000/78 (in 2007 and 2010 respectively), and found that Hungarian legislation was in accordance with the directives, it is the view of the author that full compliance is uncertain in some areas and is highly dependent on the judicial interpretation of the regulations in question. The areas in which possible breaches may occur are summarised below.

- Due to the comprehensive material scope of the ETA, the requirement of equal treatment as set forth by the ETA applies only to a restricted circle of private actors. Therefore, with regard to the sectors falling under the material scope of the directives, Hungarian law may be in breach of the *acquis*, as it does not impose the obligation of non-discrimination on all persons in the private sector (for a detailed explanation, see Section 3.1.2.)
- Article 7(2) of the ETA allows for objective justification in certain cases of direct discrimination, depending on the ground for discrimination and on the nature of the right concerned (fundamental right or not) (for a detailed explanation, see Section 2.4.)
- The rules for the justification of indirect discrimination are also not fully in line with the directives (for a detailed explanation, see Section 2.5.)
- The 'special exempting clauses' also contain certain inconsistencies, unjustified distinctions between certain grounds and wider possibilities for exemption than allowed by the directives (see for example Section 4.1 on the equal pay for equal work principle). Depending on judicial interpretation, some provisions of the law on churches and religion and the new law on the career path of teachers may cause a contradiction between domestic and EU law in relation to organisations with a religious ethos (for a detailed explanation, see Section 4.2.)
- The Labour Code's capping of the damages that may be granted if an employee is dismissed in a discriminatory manner and does not request their reinstatement seems to contradict the relevant jurisprudence of the CJEU (for a detailed analysis, see Section 6.5.)
- The exclusion of workers of pension age from a severance payment may be in violation of the relevant CJEU jurisprudence (for a detailed analysis, see Section 4.6.4)
- As a result of a 2023 judgment of the Kúria, the obligation of reasonable accommodation as interpreted by the Hungarian jurisprudence is in breach of the *acquis*. The Kúria's judgment concludes that employers are not under the obligation to offer to transfer an employee to another position if that employee's disability prevents them from continuing in their old position (which is not in line with the CJEU's *HR Rail* judgment). Moreover, the Kúria's decision is based on an argument that = seems to hollow out any obligation on the employer to adapt to the reasonable needs of a job seeker with a disability in order to facilitate their access to employment (for a detailed analysis, see section 2.8).
- Following a successful group lawsuit of 60 segregated Roma pupils, the National Public Education Act was amended with a view to excluding the possibility of demanding moral damages for the violation of inherent personality rights (including segregation and other forms of discrimination) committed by educational institutions. In the author's view, the amendment is disadvantageous to the victims, since – compared to all other victims of rights violations – it reduces their freedom of choice regarding the types of sanctions they can ask the courts to apply, and deprives them of the possibility of claiming a particularly effective type of sanction that is available to all other persons in a similar situation. It is also obvious that it disproportionately

³⁴⁵ The assessments and views expressed in both sections 11.1 and 11.2 reflect the author's opinion.

concerns segregated Roma pupils, as the majority of known cases of inherent personality rights violations committed by educational institutions are segregation cases. For these reasons, the amendment has reduced the degree of dissuasiveness of the system of sanctions, thus breaching the requirements provided by Articles 6 and 15 of the Racial Equality Directive and – in relation to vocational training – Articles 8 and 17 of Directive 2000/78 (for further details, see Section 6.1.)

- As of 1 January 2021, the Equal Treatment Authority was abolished and its mandate and powers were transferred to the Ombudsman. The change, which was not preceded by any meaningful consultation with stakeholders, many of whom explicitly and publicly objected to the transfer, is, in the author's view, an organisational 'downgrading' of the issue of non-discrimination, in the sense that this was the single focus and mandate for the Authority, whereas the Ombudsman's Office is a large organisation with a wide mandate ranging from environmental protection through children's rights to the monitoring of prisons. Consequently, as also suggested by the statistics of the Ombudsman's operation as the equality body, much less attention is paid to non-discrimination. Thus, the reorganisation of the institutional framework has decreased the level of protection against discrimination in Hungary, raising, in the author's view, the possibility of breaching the non-regression clause of Directive 2000/43. The termination of the referee network of the Equal Treatment Authority after the transfer of the mandate could negatively impact the Hungarian equality body's ability to provide independent assistance to victims of discrimination in pursuing their complaints under Article 13 of the Racial Equality Directive, which also raises a potential violation of the Directive's non-regression clause (for further details, see Chapter 7).
- Similarly, the elimination of public interest fines from among the available sanctions in discrimination cases addressed in the framework of inherent personality rights litigation under the Civil Code may be regarded as a regression in terms of the effectiveness of the system of sanctions (for further details, see Section 6.5).
- The Kúria's decision completely overturning previous consistent jurisprudence that found inherent personality rights invocable when a municipal or state authority's inaction caused or maintained systemic discrimination (such as segregation in education), eliminates the possibility of having systemic discrimination stemming from the authorities' failure to take action against inequalities effectively remedied, which raises the potential non-compliance of judicial practice with Article 15 of the Racial Equality Directive (for further details, see Section 6.5).
- On the basis of Act XLVIII of 2025 on the Protection of Local Identity (which entered into force on 1 July 2025), municipal councils across Hungary adopted local decrees making moving into the given municipality dependent upon conditions that have a clearly disproportionate impact on Roma communities (e.g. the need to have a high school diploma, pay a substantial settlement tax, have been in employment for a long period of time). In a Public Warning, the Minorities Deputy warned that 'the often arbitrary and stigmatising conditions set out by the municipal decrees violate human dignity and the requirement of legal certainty, limit the freedom of movement and property. These rules are in many cases suitable to lead to indirect discrimination against the members of Roma communities.' In the author's view, the law and the decrees based on it violate Articles 2(2)(b) and 3(1)(h) of the Racial Equality Directive (for further explanation, see section 3.2.9).

11.2 Other issues of concern

- Public premises and services are still far from being completely accessible, even though the obligation to provide an accessible environment has been in place for over a decade, and the failure to do so is qualified as direct discrimination based on disability under the jurisprudence of the equality body.
- There is a general climate of intolerance, xenophobia and hostility to 'otherness', most powerfully expressed by the Prime Minister, who openly stated that 'we [Hungarians] do not want to become diverse in a way that we get mixed, our colour, our traditions, our national culture get mixed with others. We don't want that. [...] We want to stay like we have been for 1 100 years here in the Carpathian Basin.' In 2025, the 2021 surge of anti-LGBTIQ statements from high-ranking politicians continued, accompanied by the passing of clearly hostile legislation, including the ban on LGBTIQ-themed public assemblies and the elimination of the ground 'gender identity' from the list of protected grounds in the ETA.

No issues of concern can be identified regarding the use of artificial intelligence in relation to the implementation of the national legislation transposing the directives, or regarding the regulation of artificial intelligence.

12 LATEST DEVELOPMENTS IN 2025

12.1 Legislative amendments

In 2025, a series of legal amendments hostile to the LGBTIQ community were adopted in Hungary. The one most closely connected to the subject matter of this report is Act V of 2025 on Certain Legislative Amendments related to the 15th Amendment of the Fundamental Law,³⁴⁶ which amended the ETA, deleting 'gender identity' from the list of protected grounds, and at the same time replacing the term 'sex' with the term 'sex and corresponding identity' in the list, which has significantly weakened the legal protection of trans people against discrimination (for the other relevant amendments, see section 7.2.).

Act XLVIII of 2025 on the Protection of Local Identity³⁴⁷ entered into force on 1 July 2025. The law authorises municipal councils to adopt local decrees that may prescribe that a right of first refusal applies to local real estate, and/or that certain conditions for registration in the municipality must be met. Under the new law, the municipal council may impose a settlement tax on those who wish to buy property or register a residential address in the municipality. On 3 November 2025, the Minorities Deputy published a Public Warning regarding the practical application of the law,³⁴⁸ which concludes that 'the often arbitrary and stigmatising conditions set out by the municipal decrees violate human dignity and the requirement of legal certainty, limit the freedom of movement and property. These rules are in many cases suitable to lead to indirect discrimination against the members of Roma communities.' The issue is described in detail in section 3.2.9.

12.2 Case law

Relevant discrimination ground(s): Disability (employment)

Name of the court: Ombudsman as equality body

Date of decision: July 2025

Name of the parties: unknown (summary anonymised)

Reference number: EBF-AJBH-58/2025

ECLI reference: N/A

Address of the webpage:

https://www.ajbh.hu/documents/10180/7631401/EBF_AJBH_58_2025_fogyat%C3%A9koss%C3%A1g+foglalkoztat%C3%A1s.pdf/82185881-7c71-c137-fcfa-1f7a9bee3fe0?version=1.1&t=1760717207228&download=true

Brief summary: The complainant, = a wheelchair user, applied for a job, but when he appeared at the previously agreed date and time for his trial day, the doorman told him, first, that there was no recruitment and then, that the workshop was accessed by stairs, so the complainant could not enter anyway. This happened even though the complainant – as required by Article 15 of the Act on the Rights of Persons with Disabilities – had indicated to the prospective employer in advance that he used a wheelchair. Referring to the employer's obligations under the law and establishing that the conditions for reasonable accommodation in the recruitment process had been in place (the position was publicly advertised; the applicant warned the employer in advance about his special needs; and accommodating these needs would not have imposed a disproportionate burden on the

³⁴⁶ Act V of 2025 on Certain Legislative Amendments related to the 15th Amendment of the Fundamental Law (2025. évi V. törvény az Alaptörvény tizenötödik módosításával összefüggő egyes törvénymódosításokról), 14 April 2025, <https://njt.hu/jogszabaly/2025-5-00-00>.

³⁴⁷ Act XLVIII on the Protection of Local Identity (2025. évi XLVIII. törvény a helyi önkormányzatok védelméről), 16 June 2025, <https://net.jogtar.hu/jogszabaly?docid=A2500048.TV>.

³⁴⁸ Deputy Ombudsman Responsible for the Rights of National Minorities Living in Hungary (2025), *A Magyarországon élő nemzetiségek jogainak védelmét ellátó biztoshelyettes FIGYELEMFELHÍVÁSA a helyi önkormányzatok védelméről szóló 2025. évi XLVIII. törvény gyakorlati alkalmazásával összefüggésben* (Public Warning of the Deputy Ombudsman Responsible for the Rights of National Minorities Living in Hungary regarding the practical application of Act XLVIII on the Protection of Local Identity), <https://4cdn.hu/kraken/raw/upload/8GnSJjF4AY0.pdf>.

employer), the Ombudsman acting as equality body concluded that the employer directly discriminated against the complainant, warned the employer and banned it from future violations.

Relevant discrimination ground(s): Disability (employment)

Name of the court: Ombudsman as equality body

Date of decision: July 2025

Name of the parties: unknown (summary anonymised)

Reference number: EBF-AJBH-78/2025.

ECLI reference: N/A

Address of the webpage:

https://www.ajbh.hu/documents/10180/7631401/EBF_AJBH_78_2025+fogyat%C3%A9koss%C3%A1g+foglalkoztat%C3%A1s.pdf/361e7103-bb74-007d-0daa-b3d9c5385c60?version=1.1&t=1759934562366&download=true

Brief summary: Although the respondent, and employer, was aware of the complainant's hearing impairment, it transferred him from his office position to the company's warehouse, where he had to perform tasks under serious noise encumbrance amplified by his hearing aid. Later, in the course of the complainant's labour suitability examination, the examining physician concluded that the complainant could not be employed in a very noisy environment. Consequently, the employer dismissed him, claiming that there was no position within the company that would be suitable for the condition of the complainant. The Ombudsman found that the employer had been at fault for placing the complainant in a position that he could not fill, owing to his hearing impairment, and that the employer's behaviour amounted to direct discrimination. The Ombudsman issued a warning and banned the employer from future violations. However, in spite of the employer's bad-faith behaviour, no fine was imposed in the case.

ANNEX 1: INTERNATIONAL INSTRUMENTS

Country: Hungary
Date: 1 January 2026

Instrument	Date of signature	Date of ratification	Derogations/reservations relevant to equality and non-discrimination	Right of individual petition accepted?	Can this instrument be directly relied upon in domestic courts by individuals?
European Convention on Human Rights (ECHR)	06.11.1990	05.11.1992	No	Yes	Theoretically yes, practically with some difficulties
Protocol 12, ECHR	04.11.2004	Not ratified	N/A	N/A	N/A
Revised European Social Charter	07.10.2004	20.04.2009	No	Collective complaints protocol signed but not ratified	Theoretically yes, practically with some difficulties
International Covenant on Civil and Political Rights	25.03.1969	17.01.1974	No	Yes	Theoretically yes, practically with some difficulties
Framework Convention for the Protection of National Minorities	01.02.1995	25.09.1995	No	N/A	Theoretically yes, practically with some difficulties
International Covenant on Economic, Social and Cultural Rights	25.03.1969	17.01.1974	No	No	Theoretically yes, practically with some difficulties
Convention on the Elimination of All Forms of Racial Discrimination	15.09.1966	04.05.1967	No	Yes	Theoretically yes, practically with some difficulties
ILO Convention No. 111 on Discrimination	Not indicated on ILO website	20.06.1961	No	N/A	Theoretically yes, practically with some difficulties

Instrument	Date of signature	Date of ratification	Derogations/reservations relevant to equality and non-discrimination	Right of individual petition accepted?	Can this instrument be directly relied upon in domestic courts by individuals?
Convention on the Rights of the Child	14.03.1990	07.10.1991	No	No	Theoretically yes, practically with some difficulties
Convention on the Rights of Persons with Disabilities	30.03.2007	20.06.2007	No	Yes	Theoretically yes, practically with some difficulties

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