EGYENLŐ=
BÁNÁSMÓD HATÓSÁG

REPORT
2019

Report

on the activities of the Equal Treatment Authority in 2019 and
on the experience of applying Act CXXV of 2003
on Equal Treatment and the Promotion of Equal Opportunities

Budapest
2020

Report on the activities of the Equal Treatment Authority in 2019 and on the experience of applying Act CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities

Published by the Equal Treatment Authority

Responsible publisher:

Dr Ágnes Honecz

Editors:

Dr Katalin Gregor
Dr Márta Pánczél
Dr Judit Varga

Typography:

Szilvia Zsell

Production (design, layout):

EsterCom

ISSN

2631-0708

Budapest
2020

CONTENTS

The Equal Treatment Authority in **2019**

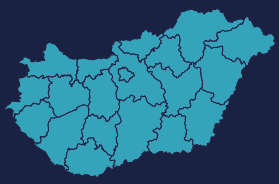
868 written submissions

904 submissions

308 administrative decisions

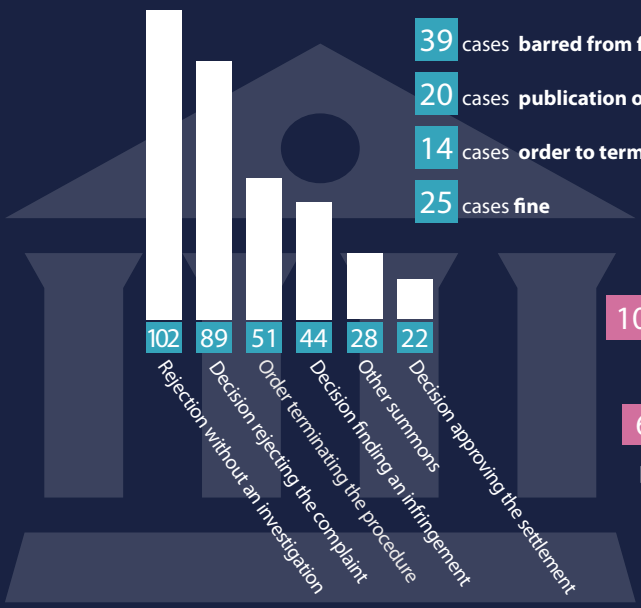
303 case in progress

410 letters of information



63 complaints through the equal treatment consultants

the network recorded a further **1465** contacts



39 cases **barred from future infringement**

20 cases **publication of the decision**

14 cases **order to terminate the infringement**

25 cases **fine**

10 950 000 HUF

total fine

600 000 HUF

procedural fine

45 hearings in **Budapest**

34 hearings in the **countryside**

Proceedings before the Metropolitan Court: **23** cases

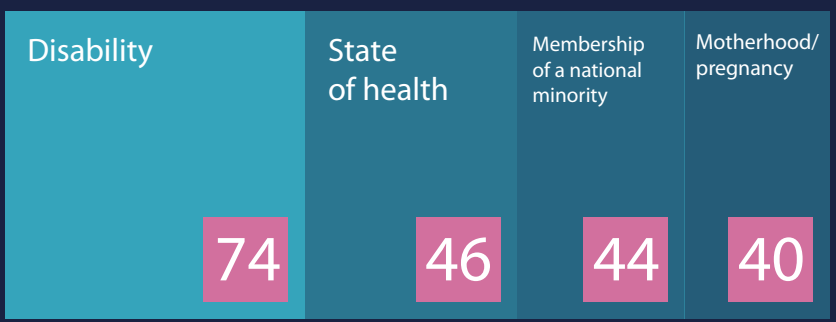
Dismissal of the action against the authority: **15** cases

Change of authority decision: **1** case

Pending proceeding: **7** cases

Main areas of discrimination in decisions finding an infringement

Protected characteristics



Characteristic protected features in infringement decisions

Sharing knowledge:

2 training for the staff of the Pedagogical Service

3 training for the leaders of the School District Centers

A program accredited with the curriculum of the authority has been developed in the administrative training system.

Publications:

EBH-booklets 5 Multiple discrimination in the Equal Treatment Authority's case-law

EBH-booklets 6 The Hungarian Equal Treatment Authority's work and case-law in the area of discrimination in healthcare

Research Personal and social perception of discrimination and legal awareness of the right to equal treatment 2019

Media campaign:

100% man - Live with it bravely!
The equal treatment consultant network is 10 years old
(10,000 flyers, 1,500 posters, appearances in national weekly newspapers in more than 1 million copies and 70 local media, vehicle advertisement on GYSEV, online campaigns, lookbike in 12 cities, number of Facebook followers increased by 2,700)

egyenlobanasmod.hu

34 cases

9 public made decisions

39 feeds

40 Facebook posts

16 cases

21 professional news

3 professional publications

11500 followers

INTRODUCTION

Dear Interested Readers,

We prepared our annual report for the 14th time in order to inform the public and the Hungarian parliament on our activities and on the experience of applying Act CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities.

This publication summarizes the situation of equal treatment in the perspective of law enforcement on the basis of the activities of the Hungarian Equal Treatment Authority in 2019.

Potential victims of discrimination, stakeholders, organizations and the media who and which are interested in and constantly follow with attention the news of the Authority can certainly find up-to-date information about our activities on our website and social media platform as well. It is a special pleasure that the number of visitors to our online surfaces continued to increase last year and in the course of our media campaign promoting the equal treatment consultants' network the number of our followers rose steadily to over 11,000.

In addition to investigating individual discrimination complaints and complaints lodged with the Authority as *actio popularis*, I would like to underline the most important results of knowledge sharing and provision of information realized in 2019.

We further broadened the series of EBH Booklets the sixth volume of which synthesizes the experience of the Authority in the field of healthcare.

We organized five training events for staff members of school district centers and pedagogical assistance services in order to exchange experience based on the cases investigated by the Authority in the field of education.

The fourth wave of our representative research examining the personal and social perception of discrimination and equal treatment having been started in 2010 was also completed in 2019 so you can find a comparative analysis and a presentation of the main tendencies in the relevant part of the publication in this regard.

We are very pleased that the curriculum that we had prepared and which had been later accredited could serve as a basis of an equal treatment related training program developed with the assistance of our staff which training program was finally integrated to the further education program of public administration. This makes our curriculum widely available to civil servants at the National University of Public Service.

You can find detailed information on all of the above, get to know the annual statistics of our application of law and can also get an insight into our case-law of 2019 in our publication that I recommend to the kind attention of all interested readers.

Dr Ágnes Honecz

I. ABOUT THE AUTHORITY

The Equal Treatment Authority *(Egyenlő Bánásmód Hatóság (EBH)*, hereinafter referred to as the Authority) is responsible for the supervision of the implementation of the principle of equal treatment, its territory of competence extends across Hungary. The Authority is an independent and autonomous administrative body. Its tasks may only be determined by an Act. It may not be instructed in its functions and shall carry out its responsibilities independently of other organs and of undue influence. The President of the Authority shall be appointed by the President of the Republic on a proposal from the Prime Minister for a term of nine years.

The Authority's primary responsibility is to investigate complaints submitted concerning alleged violation of the principle of equal treatment. The Authority conducts its investigations based on the rules of public administration procedures and its work is helped by a nationwide network of equal treatment consultants. The Authority supports the prevention and recognition of discriminative conducts as well as the acquisition of a non-discriminatory approach by professional and informative publications and also by programs besides the application of the law.

The legal framework for the activities of the Authority is set out in *Act CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities* (hereinafter referred to as the *Ebktv* following the Hungarian abbreviation).

DISCRIMINATION

Discrimination is the violation of the principle of equal treatment. Pursuant to the Ebktv the principle of equal treatment is violated, i.e. discrimination occurs when an individual or a group of individuals suffers a disadvantage on the ground of a protected characteristic he/she/they possess. Protected characteristics or protected grounds are characteristics, personal features and attributes set forth by the Ebktv on the ground of which, under the law, differential treatment violates the principle of equal treatment thus constitutes discrimination.

The protected characteristics listed in the Ebktv are the following:

- sex
- race
- color
- nationality
- membership of a national minority
- language
- disability
- state of health

- religion or belief
- political or other opinion
- family status
- motherhood (pregnancy) or fatherhood
- sexual orientation
- gender identity
- age
- social origin
- property
- part-time or fixed-term nature of the occupational relationship or other employment-related relationship
- membership in a representative organization
- any other status, characteristic or attribute

The Ebktv tends to extend protection to innate characteristics that are either permanent, immutable or difficult to change. In line with international practice, protected grounds refer to essential features of the personality that are suitable for group formation and may give rise to prejudices. However, the enumeration set forth by law is not a closed but an opened list, i.e. "any other status, characteristic or attribute" is also included (Section 8 point t) of the Ebktv). Nevertheless, this does not imply that according to the law differential treatment or harassment would be regarded as discrimination on the ground of any other type of feature or attribute. The notion of "any other status, characteristic or attribute" has to be interpreted narrowly, i.e. only characteristics and situations that are essentially similar to those enumerated by law can be accepted as protected grounds.

Discrimination can be constituted by direct discrimination, indirect discrimination, harassment, segregation and victimization.

The current publication provides information on the activities of the Authority in 2019. Further detailed information about the Authority and its procedure is available on the Authority's website (egyenlobanasmod.hu).

II. CASES

As in previous years, some final cases were selected to serve as a lesson to recognize that the observance of the principle of equal treatment and the protection of human rights are requirements that should not be neglected in the future and it is worth seeking legal remedies for all of those who feel that they have been discriminated against. In this report such cases are included which became final before the Authority or the court. In some cases the decision of the Authority was made in previous years (i.e. not in 2019), however the client (the complainant or the party complained) lodged a request for review with the court against the Authority's decision and the judgment of the court became final in 2019.

EMPLOYMENT

Pregnancy, thus serious misconduct
Case no. EBH/HJF/180/2018 – decision finding discrimination

Pursuant to Act I of 2012 on the Labor Code the employment relationship shall not be terminated by *dismissal by the employer* during the pregnancy of the employee. However, this prohibition rule does not relate to the termination of the employment relationship by *mutual consent* or *summary dismissal*. Numerous complaints are submitted to the Authority in which the complainants allege that they have been discriminated against by their employer on the ground of their pregnancy because the employer has terminated their employment relationship by mutual consent. Nevertheless, mutual consent cannot be considered as a disadvantage because it is an expression of the mutual unanimous will of the parties, therefore it is not possible for the Authority to investigate these complaints. In contrast with these cases, the Authority launches investigation upon complaints in which the employer has terminated the employment contract of the pregnant employee by summary dismissal. In these cases the Authority investigates whether the employee's pregnancy was the reason of the termination of the employment relationship. As specified by law, there are only two possibilities for the employer to terminate the employment relationship by summary dismissal. It is possible during the probationary period (without justification) or in the case of the employee's serious misconduct. The Authority constantly receives complaints according to which the employment relationship has been terminated on the ground of the employee's pregnancy without justification during the probationary period. However, it happened also that the employer terminated the employment relationship of the pregnant employee by summary dismissal over the expiration date of the probationary period referring to her serious misconduct. The following case is an example of the latter.

The complainant had been working for the employer for a year when on 7 August 2017 the employer terminated her employment relationship by summary dismissal

referring to the complainant's serious misconduct, i.e. according to the employer she committed a grave violation of a substantive obligation arising from the employment relationship. As it was stated in the justification of the dismissal, the complainant would have been obliged to be available for the employer by appearing at her workplace for work on the days after the expiration date of the period of her incapacity to work. However, the complainant had seriously violated this substantive obligation since on 26 and 27 of July she had not been available for the employer, furthermore she had not informed the employer about her absence in advance. The dismissal document also noted that the employer had tried to contact the complainant by telephone but this attempt had failed, additionally, after all that the complainant had sent a short text message (SMS) to the employer about the fact that she would be on leave during the week in question and on the next week as well. The dismissal document emphasised that it was the employer who allocated the days of leave and the complainant was only entitled to announce to the employer her request concerning 7 days of the annual vested vacation time at least 15 days in advance but she had failed to do so.

The complainant lodged a complaint with the Authority in the case above because she was of the opinion that her pregnancy had been the actual reason why the employer had terminated her employment relationship so she had been discriminated against on this ground. She underlined in her petition that the dismissal had taken place only a few days after the announcement of her pregnancy. She alleged that she had not been absent from work without permission or prior notification on the days referred by the employer. As it was the common practice at the employer she had consulted with the chief executive of the company via SMS who had made it possible for her to take these days as vacation. She also noted that after announcing her pregnancy the chief executive had suggested her to terminate her employment contract by mutual consent but she had not accepted it. Additionally, her place of work was a warehouse cooled to 3 °C and she had to lift a lot so she had been promised that the employer would provide her with a lighter job, however, finally the employer had not taken this measure.

In the course of the Authority's procedure it could be established that the complainant possessed the referred protected ground (i.e. pregnancy) and she suffered a disadvantage by the termination of her employment relationship. The employer was not able to prove that there had not been a causal link between the protected ground and the suffered disadvantage so the employer failed to prove that it had not been the complainant's pregnancy which had led to her dismissal. The employer was not able to convince the Authority of assessing the complainant's absence such a serious misconduct which had made her summary dismissal well-founded. Presenting short text messages (SMS) as evidence, the complainant refuted the employer's allegation that she had not informed the employer about her absence as well as of its cause in advance. It was proven that the complainant had followed her employment contract and the company's common practice when she had informed her superior about her absence. In the course of the hearing held in the case, the chief executive himself acknowledged

that the actual reason of the termination of the complainant's employment relationship had not been her two days of absence.

In its decision, the Authority established that direct discrimination had occurred and the employer had violated the principle of equal treatment on the ground of the complainant's motherhood (pregnancy) with the termination of her employment contract by summary dismissal after the announcement of her pregnancy. Therefore the Authority prohibited the unlawful conduct for the future, ordered the publication of its final decision and imposed a fine of 1 million forints (3,300 euros approximately).
The employer lodged a request for review with the competent court (Budapest-Capital Regional Court, *Fővárosi Törvényszék*) against the Authority's decision. In its request, the employer alleged that the Authority had not had the competence to establish that the termination of the complainant's employment relationship had been unlawful, and had not had the competence to investigate whether this applied measure had been in accordance with the provisions of the Labor Code, either. The court finally upheld the Authority's decision and rejected the employer's lawsuit as ill-founded. According to the court's judgment no. 102.K.700.472/2018/15 the employer's (i.e. the plaintiff's) argumentation concerning the lack of the Authority's competence was incorrect since the Authority had solely investigated whether the principle of equal treatment had been violated. Nevertheless, the Authority had had to investigate in this regard whether, in accordance with the rules of proof laid down in Section 19 (2) of the Ebktv , the employer had been capable of proving that the reason of the dismissal had been substantive and it had not been the complainant's pregnancy because of which the employer had terminated her employment contract. The court emphasized that the Authority had not taken a stand on the question whether the complainant's dismissal had been unlawful.

The employer appealed the court's judgment. However, in its decision no. Kf.IV.38.098/2018/10 the Hungarian supreme court (Curia of Hungary, *Kúria*) rejected the appeal and upheld the court's decision.

The principle of equal treatment shall also be observed during the probationary period

Case no. EBH/HJF/218/2019 – decision finding discrimination

In this case the employment relationship of the complainant, who had been working in a grocery store as a saleswoman and cashier, was terminated by summary dismissal without justification by the employer during the probationary period.

The complainant submitted a complaint to the Authority since she was of the opinion that the employer had terminated her employment relationship because of her pregnancy. She stated that she had verbally reported her pregnancy to her superior and thereafter the employer had dismissed her exactly on the same day when she had started her sick pay because of her high-risk pregnancy upon the discretion of her doctor.

The employer alleged that the complainant's employment relationship had been terminated because they had not been satisfied with her work. According to the employer's argumentation, it meant that the complainant had not been willing to make bakery products, she had been doing her work too slowly and she had not wanted to do cashier tasks. Overall, her work had not reached the expected level and that had been the reason for the termination of her contract. The employer company highlighted that they had become aware of the complainant's pregnancy only on the day of the dismissal, in other words at the time of the decision of the complainant's dismissal the employer had not even known about her pregnancy.

During the hearing held in the case, the witnesses made contradictory statements and they changed their testimonies several times afterwards.

In the course of the Authority's procedure it could be established that the complainant had verbally reported her pregnancy to the shop manager as her superior and it had been already informally known at the workplace prior to the date of her dismissal that she had been pregnant. The Authority did not accept the employer's argumentation in the meaning of which the complainant had not been willing to make bakery products because according to her employment contract and also her job description she had been a cashier and it had not been included in these documents that making bakery products would have belonged to the complainant's tasks. In the course of the procedure it was also proved that employees who had been working behind the counters had been the ones who had made bakery products, by contrast, the complainant had been working behind the cashier desk or had filled the empty shelves with various products around the cashier desk. As to the alleged slowness of the complainant's work, the Authority was of the opinion that working slower during the on-the-job training period had not been such a serious mistake that could justify thus could be led to summary dismissal. Additionally, according to the shop manager's statement the complainant's work as a cashier had been bearable.

Thus, it could not be established in the course of the procedure that there had been such problems with the complainant's work which had provided the foundation for her summary dismissal during the probationary period. The employer was not able to prove that the alleged deficiencies in connection with the complainants work had been the actual reason of her dismissal. However, it could be established that after her announcement to her superior and another colleague about her sick pay because of her high-risk pregnancy the employer had terminated her employment relationship exactly on the same day.

Based on the above, according to the Authority's assessment the complainant's pregnancy had definitely played a role in her summary dismissal during the probationary period. Therefore the Authority established that the employer had violated the principle of equal treatment on the ground of the complainant's motherhood (pregnancy) so direct discrimination had occurred against her. The Authority prohibited the unlawful conduct for the future, ordered the publication of its final decision on both the employer's and its own website and imposed a fine of 800,000 forints (2,600 euros approximately) as sanctions.

The employer lodged a request for review with the competent court (Budapest-Capital Regional Court, *Fővárosi Törvényszék*) against the Authority' s decision. However, the court upheld the Authority's decision and rejected the employer's lawsuit in its judgment no. 106.K.700.420/2019/11.

Women are not entitled to additional benefits
Case no. EBH/152/2018 – decision finding discrimination

In this case a female employee suffered a disadvantage in terms of her pay compared to her male colleagues. The complainant was working for a healthcare institution as a public servant in the field of labor, fire and property safety, she was in the position of team leader for years. In her complaint submitted to the Authority she complained that her pay was lower than that of her male colleagues working in the same field and she was of the opinion that her female sex was the reason of this fact.

The employer did not contest that the complainant's pay was lower compared to her male colleagues. He justified the remuneration differences with the differences concerning the employees' job functions, age, working experience, length of their employment with the employer in question and the number of hours actually worked by them.

The investigation led by the Authority covered the year of 2017. In this period, labor, fire and property safety tasks were performed by the complainant and three male colleagues within a team the leader of which was the complainant and the three male employees were team members as her subordinates. In December 2017 reorganization took place in the framework of which the labor, fire and property safety team was divided into three independent teams. One of the leaders of these new teams remained the complainant and two of her

former subordinates became the leaders of the two other independent teams. It is not possible to contest that differences in the public servants' remuneration can be justified with the factors referred by the employer. Nevertheless, it could be established in this concrete case that during the entire investigation period all male employees had received an additional benefit added to their salary calculated by law on a monthly basis upon the employer's decision irrespective of their age, job function or the length of their employment. However, as to the complainant, it had been only the guaranteed wage minimum that she had received. It could be also established that male employees had received additional benefits for the performance of the team leader tasks also on a monthly basis from the time of their appointment to this position. However, at the same time the complainant had not received any addition benefit for performing the team leader tasks. This differential treatment between the complainant as a female employee and the male employees obviously could not have been justified with the factors already mentioned above and the employer did not give any other reason to justify this distinction although the burden of proof was on their side.

Based on the above, the Authority came to the conclusion that the complainant's female sex had been the reason why she had not received the already mentioned additional benefits therefore it established that the complainant had been discriminated against by her employer. The Authority imposed a fine of 200,000 forints (670 euros approximately) as a sanction. Furthermore, according to the Authority's decision the employer became obliged to determine the complainant's remuneration taking into account the principle of equal treatment. It meant that the employer had to grant the additional benefits given to male employees also to the complainant. Namely, the Authority ordered that the complainant would have to receive the additional benefits which her male colleagues had been receiving upon the employer's decision and also the additional benefit given for the performance of the team leader tasks. The employer became obliged to grant these benefits to the complainant in accordance with the principle of equal treatment as well as to certify to the Authority that the prescribed obligations would be fulfilled. The employer lodged a request for review with the competent court (Budapest-Capital

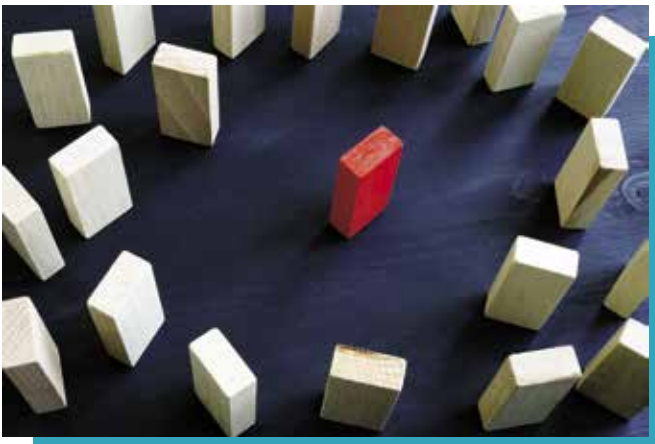
Regional Court, *Fővárosi Törvényszék*) against the Authority's decision. In its request, the employer stated that the Authority had not taken into consideration the fact that it was the sovereign right of the employer to differentiate among the employees based on the quality of their work. The employer also underlined that there had been serious problems with the complainant's work. In its judgment no. 107.K.700.759/2018/7 the court rejected the employer's lawsuit sharing the Authority's establishments according to which age, working experience, length of the employment and the number of hours actually worked could not have been the basis of such a differential treatment by means of which one of the employees had not received any additional benefits at all and at the same time all of the other employees had been actually receiving these benefits. Furthermore, these factors referred by the employer could not have served as an objective justification for such a differentiation that the employer had not given to the complainant the benefits coming with the team leader position, either. The court finally established that the employer had not given any reason neither in the course of the Authority's nor during the court's procedure which could have justified the differential treatment applied against the complainant. The employer had not given such a reason concerning the quality of the complainant's work, either. The employer appealed the court's judgment basically referring to new facts and evidences concerning the shortcomings of the complainant's work by attaching also a list about these shortcomings. However, in decision no. Kf.II.37.309/2019/11 the Hungarian supreme court (Curia of Hungary, Kúria) rejected the appeal and upheld the court's decision. In its judgment, the Curia explained that, in accordance with the rules of proof laid down in Section 19 (2) of the Ebktv , the employer had had the possibility to present its arguments and evidences in the course of the Authority's procedure and had been also informed properly about these possibilities. Furthermore, the Authority had held a hearing as well, but the employer had not referred to the shortcomings of the complainant's work, not that time either. So, according to the Curia's argumentation, before the courts it was late for making such references with regard to the fact that the employer had been already aware of the complainant's shortcomings at the commencement of the Authority' procedure.

Even a hand sanitizer can violate human dignity

Case no. EBH/HJF/67/2019 – decision finding discrimination

The complainant had been working for the employer complained for a few months when he became aware of being infected with HIV. He informed about his HIV status only his immediate superior, however, one of his subordinates also got to know about it just like then the rest of the staff. Thereafter sanitizers were placed in the office and the complainant was asked by his immediate superior to bring his own cutlery to the workplace and to take precautions. The ambiance became hostile at the workplace and one of his colleagues called the complainant a "sick man". The complainant was severely worn out because of all that happened furthermore his employment relationship was finally terminated by the employer. In his complaint submitted to the Authority he asked for establishing that the placement of sanitizers, the obligation to bring his own cutlery and the behavior

of his superior and other colleagues had amounted to harassment for which the employer had been responsible. To support his complaint, he attached the transcription of the audio recording of the conversation with his immediate superior as well as photographs about the sanitizers placed in the office. He also underlined that his HIV infection could not be dangerous to other employees in an office environment.



In the course of the Authority's procedure the employer argued that it had been one of the colleagues who had placed the sanitizers without the employer's consent which otherwise was quite common at workplaces and did not violate human dignity. The employer acknowledged that his immediate superior had really asked the complainant to take precautions and bring his own cutlery, however, this had not been an obligation and the complainant had actually used the common cutlery all the time. The precautions had been considered necessary by the colleagues because the complainant had regularly chewed his fingernails until bleeding and had had recurrent cold sore, thus according to the employer the precautionary measures had been reasonably justified. The employer alleged also that the statements which the complainant had attributed to certain staff members had not been degrading, his colleagues had not mocked him thus the complainant's human dignity had not been violated. Additionally, the employer argued that there had not been created an intimidating, hostile or humiliating environment around the complainant. In order to support this argument they attached a short text message (SMS) exchange between the complainant and his superior which in the employer's opinion showed that the complainant's superior had been understanding and supportive with the complainant. Finally, the employer was of the opinion that the staff members' statements had not violated the complainant's human dignity because these statements had only been about mutual respect for each other's sensibility and fundamental rights. Since the complainant also went to court about the same case, relying on Section 15/B (1) of the Ebktv , the Authority suspended its procedure, then made its decision based on the final judgment of the court.

According to the courts' judgments (first instance judgment no. 22.M.2752/2015/34 of the Budapest-Capital Administrative and Labor Court [*Fővárosi Közigazgatási és Munkaügyi Bíróság*], second instance judgment no. 6.Mf.681818/2017/16 of the Budapest-Capital Regional Court, [*Fővárosi Törvényszék*]) it was definitely proven that the complainant's human dignity had been violated on the ground of his state

of health and as a result of the behaviors that had violated his human dignity a degrading and humiliating environment had been formed around him.
The court could make these establishments since it could be heard several times on the audio recording of the conversation with his immediate superior that the complainant had felt ashamed of his colleagues' behavior and attitude. Ensuing from the wording of the law, the court emphasized that harassment could be occurred even if intimidating, humiliating or mockery had not been the perpetrator's purpose however the action committed actually triggered this effect. It was also established by the court that the employer had been aware of the harassing behavior. The audio recording revealed that the complainant's immediate superior, who otherwise had been representing the employer, had realized the hostile working environment regarding the hand sanitizers as well as the cutlery since it had been the immediate superior himself who had asked the complainant to bring his own cutlery and he had been also clearly aware of the concerns in connection with the hand sanitizers. In spite of all that, the immediate superior had not done anything to eliminate the situation that had been evolved, on the contrary, he had approached the complainant with the attitude that it had been the complainant and not his colleagues who had had to take steps in the interests of the others and tolerate the actual situation. The court did not accept the employer's argumentation according to which even there had been a causal link between the request for using the complainant's own cutlery and his protected ground (state of health), this request had been objectively and reasonably justified by the protection of the other employees' right to health. The judgment established that based on available knowledge the use of common cutlery had not threatened the other employees' right to health on any terms, thus the protection of this right could not have arisen either.

The court's assessment bounded the Authority in the course of making its decision. Agreeing with the court's judgment, the Authority accordingly established that the placement of hand sanitizers, the request for using his own cutlery as well as the communication of his colleagues and his superior in this regard had created a degrading, humiliating and hostile working environment around the complainant because of his state of health. Since the employer had not taken any steps in order to prevent or eliminate the evolvement of this situation, harassment had been constituted against the complainant on the ground of his state of health for which the employer had been responsible. As a sanction for this violation the Authority prohibited the unlawful conduct for the future and ordered the publication of its final decision to prevent the occurrence of similar cases. The Authority did not impose fine since, because of the proceedings before the courts, a long time had passed from the infringement to the Authority's decision additionally the court had awarded a considerable amount of compensation to the complainant.

EDUCATION

Fulfillment of compulsory education: by school attendance or as homeschooled

Case no. EBH/HJF/122/2019 – decision finding discrimination

The parent of a child diagnosed with moderate autism and mild intellectual disability therefore considered as a child with special educational needs lodged a complaint with the Authority as his legal representative. According to the complaint, in October 2017 an expert opinion of the competent expert committee designated the primary school complained to provide the necessary care for the child prescribing his separate education in such a way that he could fulfill his compulsory education requirements solely by school attendance. The parent complained that at the end of the first semester of the school year 2017/2018 she had asked for homeschooled status of her child at the initiative of the complained school therefore the child had gone to school only twice a week. She also reported that in September 2018 the school had submitted a request to the competent expert committee to designate another educational institution for the child informing her at the same time about the impossibility of her child's school attendance since a lot of teachers had left the school, the child's former educational group had not existed anymore and he could not have been cared for by a special needs teacher specialized in autism. The parent had indicated the measures of the school mentioned above to the pedagogical assistance service as a result of which from November 2018 it had become possible for the child again to go to school twice a week as a homeschooled pupil, however, the development prescribed by the expert opinion in force had not been provided for him. Finally, the parent declared that the child had been a pupil of another school since March 2019.

The school tried to defend itself alleging that its deed of foundation did not contain the development of pupils with autism.

The Authority did not accept the defense of the school and established that according to its deed of foundation the school provided care for pupils with special educational needs who had mild or moderate intellectual disability as well as the diagnosis of autism. Additionally, according to the competent expert committee the school had the necessary conditions needed to provide the prescribed special treatment for the complainant's child. Pursuant to Act CXC of 2011 on National Public Education in the case of children with special educational needs it is the expert committees' competence to decide whether the child shall fulfill his or her compulsory education requirements by school attendance or as a homeschooled pupil. In the concrete case the expert committee clearly ordered that the child could fulfill his compulsory education requirements solely by school attendance. So the school with regard to the binding expert opinion in force relating to the child would have not qualified the child as a homeschooled pupil, even it had been requested by the parent. Based on the above, the Authority established that the school had violated

the principle of equal treatment by not making it possible for the child to fulfill his compulsory education requirements by school attendance despite of the binding expert opinion.

On the basis of the parent's statement, a witness testimony and the attached personal development sheet of the child relating to the school year 2018/2019, the Authority found it also proved that the child had not been allowed to attend the educational institution in the period between September and November of 2018. Thus the Authority established the violation of the principle of equal treatment also in this regard.

In the course of the Authority' procedure the school acknowledged and one of the witness testimonies confirmed that special needs teacher specialized in autism had not been working in the school during the period when the child had been its pupil. Additionally, the school did not prove during the procedure that it would have provided the special care prescribed by the expert opinion for the child in any other way. On the basis of the above, the Authority found it proved that the autism spectrum disorder development prescribed by the expert opinion had not been provided for the child so the school had violated the principle of equal treatment also in this regard.

The Authority prohibited the unlawful conduct for the future, ordered the publication of its final decision and imposed a fine of 150,000 forints (500 euros approximately) as sanctions.

None of the parties submitted a request for review to the competent court against the Authority's decision.

GOODS AND SERVICES

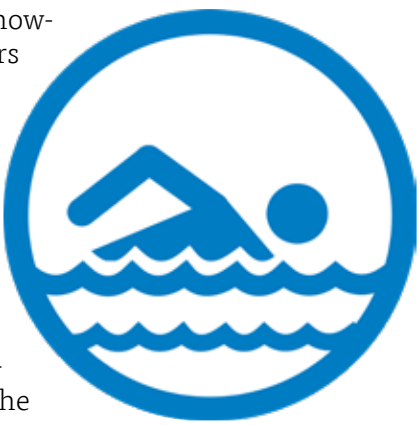
Deep water, only for swimmers!
Case no. EBH/HJF/122/2019 – decision finding discrimination

"Water section" could also be the title of the two following cases since a baths and a swimming pool were the complained parties in both.

A sports association promoting sports activities of LGBTQ people contacted a swimming pool via e-mail in order to rent two swimming lanes on a given day for a duration of one hour in connection with a sports day organized by the association. The next day the coordinator of the swimming pool informed the association about the rental fee of the swimming lanes and inquired about the number of participants. One of the board members of the association gave the requested information and asked further questions about the conclusion of the contract as well as the payment of fees. The swimming pool wrote as reply the exactly required data needed to prepare the contract. However, after sending the required data, i.e. the exact name, address and tax number of the association, it received an answer from the swimming pool according to which they would not be able to provide the two swimming lanes at the given time. The board member of the association requested information on the reason for the refusal, however, no other response was received than "if this association is the one that can be found under the website with the same name, we cannot provide any swimming lane for them".

The association submitted a complaint to the Authority since they were of the opinion that the operator of the swimming pool had not provided the possibility of renting a swimming lane for them on the ground of their members' sexual orientation and gender identity.

In the course of the Authority's procedure the operator of the swimming pool referred to the high number of guests and rental requests, the lack of permanent contractual relationship with the complainant association as well as to the swimming pool's policy statement, however, they were not able to prove that these factors had been actually the reason for the refusal of the association and the data presented by them were also inadequate to support these arguments.



In its decision, the Authority held that the complainant sports association had been discriminated against by the operator of the swimming pool on the ground of their members' sexual orientation and gender identity when the swimming pool had not allowed the association to rent the requested swimming lanes.

The Authority pointed out that the complainant association had possessed the referred protected grounds since there had been a clear reference in their statutes to sexual orientation and gender identity as protected characteristics. According to the Authority's decision, discrimination through association had been constituted because the complainant organization had suffered a disadvantage on the ground of their members' protected characteristics. On the basis of the available e-mail exchange it could not be established that the actual reason for the refusal of the complainant association had been the lack of factors such as the high number of guests and rental requests or the lack of permanent contractual relationship referred only in the course of the Authority's procedure. The coordinator of the swimming pool had not referred to any of these factors in the e-mail exchange with the complainant association such an objection could not be identified in the correspondence. The coordinator had mentioned explicitly the association's website as an explanation for the refusal, the website on which it had been clearly and unequivocally indicated that the complainant association had been promoting the rights of lesbian, gay, bisexual, transsexual and queer people.

The operator of the swimming pool lodged a request for review with the competent court (Budapest-Capital Regional Court, *Fővárosi Törvényszék*) against the Authority' decision. However, in its judgment no. 22.K.700.060/2018/7 the court rejected the swimming pool's lawsuit because it found the Authority's decision well-founded on every account.

Burkini in the thermal baths
Case no. EBH/HJF/339/2019 – decision rejecting the complaint

The complainant, of Hungarian nationality, went to one of the domestic thermal baths. She purchased a ticket then noticed a pictogram in the changing room showing that services of the baths are available only wearing swimming suits that do not cover certain parts of the body. However, the complainant as a Muslim woman would have liked to bathe in a swimming suit (called burkini or Muslim swimsuit) that covers all over the body except hands, feet and face. Therefore she went back to the cash-desk where she was informed about that bathing in a swimming suit which covers all over the body was really contrary to the baths' policy statement. According to the baths' policy statement only swimming suits may be used in the pools that, at the maximum, reach down to the knee with regard to the lower body, or up to the shoulder for the upper body. After all that happened, the complainant made an entry to the customer complaints register and repurchased her ticket. In her point of view the referred provision of the baths' policy statement constitutes indirect discrimination against Muslim women, thus against her because it puts, to a considerably higher extent, Muslim women in a position more disadvantageous than that in which another person or group in a comparable situation is, has been, or would be since the pools could not be used in a swimming suit that covers all over the body, and such swimwear is typically worn by Muslim women.

The Authority heard the head of the baths who talked to the complainant when the incident happened as witness. In her testimony, the head mentioned that it had been conspicuous for her that the complainant's bag had been smaller than the bags with which bath guests usually visited the baths. Additionally, the complainant had solely referred to her swimsuit but she had not taken it out of her bag and had not shown it, either. Nevertheless, she had immediately made it clear that she had been an "activist" and she would "make a case out of this". Thus the head of the baths doubted if the applicant had actually intended to use the service provided by the baths at the given time. The complainant did not contest the head's allegations and did not make statements to the contrary basically because despite having been required by the Authority to appear in person and show her swimsuit she did not attend the hearing held in the case, she did not participate personally in the procedure at all. In the light of the above, it could not therefore be established beyond any doubt that the complainant had actually suffered a disadvantage.

Nevertheless, it was investigated by the Authority on the merits whether the complainant had suffered indirect discrimination under Section 9 of the Ebktv as a consequence of application of the baths' policy statement. The Authority had to investigate in this regard that whether the provision of the baths' statement policy disputed by the complainant concerning the size of the swimsuits which could be worn in the pools constituted indirect discrimination against women who practice the religion of Islam. So, it investigated whether this provision put, to a considerably higher extent, Muslim women in a position more disadvantageous than that in the persons who did not follow Islam are, have been, or would be. Section 9 of the Ebktv relating to indirect discrimination ("puts, to a considerably higher extent, certain persons or groups in a position more disadvantageous") solely covers in numerical terms whether an apparently neutral measure or conduct puts certain persons or group of persons into a more disadvantageous position. The Authority took into account in this regard the head of the baths' statement which was not contested by the complainant and according to which mainly Asian, Far Eastern and Indian women were the ones who preferred to bathe in swimming suits covering all over their bodies and these women are obviously not Islamic. Thus, on that basis it could not be concluded that the provision of the baths' statement disputed by the complainant would put Muslim women in a more disadvantageous position to a considerably higher extent than that in which persons who do not follow Islam are, have been, or would be.

At the hearing held by the Authority the operator of the baths explained that according to their knowledge and experiences Muslim women typically did not go to co-educated baths. As to tourists from Arabic countries, female guests generally used the service of private bathing and male guests used the co-educated part of the baths. By this statement, the operator wanted to express their point of view that according to the Islamic religious regulations co-educated bathing was not possible for women in any bathing suit. The complainant did not mentioned any Islamic religious regulation that would make it possible for Muslim women to bathe

together with men in public places and would prescribe for these occasions to wear swimsuits which cover all over the body. Therefore doubts raised also as to whether women's public bathing together with men was compatible with Islamic traditions and religious regulations and whether such a religious rule existed which prescribed to wear burkini. It was obvious that during the more than a thousand years of existence of Islamic religion and culture the followers of this religion, both men and women, had always bathed, however, as to the existence of a religious regulation prescribing to wear burkini it could not be ignored the fact that this type of swimwear had only existed for about 15 years. So, if there was no such a religious regulation Muslim women could not suffer a disadvantage in this regard.

Despite the fact that it could not be established, based on the above, that the provision of the baths' policy statement disputed by the complainant would affect Muslim women to a considerably higher extent, the Authority investigated whether the baths' arguments of public health and prevention of accidents could justify the existence of this provision, i.e. the applied measure of the baths. The Authority had to investigate in this regard whether the application of the disputed provision of the policy statement was necessary to prevent accidents as well as to guarantee other persons' right to health, whether it was appropriate to reach this aim and finally whether it was proportionate.

As to the arguments concerning the reduction of public health risks presented by the operator of the baths' it had to keep in mind that the pools of the baths', with the exception of jacuzzi, contained chemical-free thermal water and were operating in a filling emptying system, so in the case of this type of pools the risk of infection was much higher than pools operating in a water recycling system. Based on the above, the Authority considered in this regard the most important that it was the operator's responsibility and obligation to reduce the risk of infection to as minimal as possible. Since it was impossible to reduce the risk of infection to zero the only possible solution for the operator was seeking to minimize this risk based on risk assessment.

Upon all these, the Authority accepted the operator of the baths' argument according to which more pathogens could adhere to the surface of a larger swimsuit since although it was imaginable that a bikini-sized surface became a carrier of pathogens, however, in the case of a material with a larger surface, the chances of the infection were obviously higher, so the risk was also higher. Furthermore, by analogy with the above, it could necessarily happen that a one-piece swimsuit or a bikini covered some minor infectious skin lesion or an open wound but this risk obviously affected a much smaller body and skin surface in the case of these types of swimwear than regarding a bathing suit that left only the face, hands and feet uncovered. Thus, as to swimming suits covering a smaller body surface the risk of infection also had to be lower.

As to the arguments raised by the operator of the baths in relation to accident risks, the Authority considered relevant the possibility that swimsuits with a larger

surface could get caught much easier into handrails, stairs and accidentally into other guests. The Authority also accepted the argument that swimsuits covering the full body, especially those types that were wider i.e. having protruding parts possibly a tunic, were more dangerous to their wearer as well. For example in the case of an accident these swimsuits might make the work of lifeguards and doctors more difficult.

Summing up the above, the Authority considered the arguments of the baths' operator concerning public health and accident risks acceptable. On the basis of these arguments the Authority concluded that, in order to guarantee the other baths guests' right to health, the application of the provision of the baths' policy statement disputed by the complainant was necessary as well as appropriate to reach this legitimate aim and finally it cannot be considered disproportionate, either. Thus, the Authority rejected the complaint for all these reasons.

With an assistance dog on the plane
Case no. EBH/HJF/151/2019 – case concluded with a settlement

Both of the following cases affected visually impaired people and were finally concluded with a settlement.

According to the complaint lodged with the Authority by the visually impaired complainant, he was not allowed to board the complained airline's flight from Budapest to London with his assistant dog.

The Authority proceeded against the air transport company and held a hearing with the participation of the parties (i.e. the complainant and the representative of the company). After the hearing, the parties reached a settlement under which the airline company undertook to send an internal notification to its concerned employees as well as to the members of its ground crew in which it would raise their attention to the possible occurrence of administrative errors due to the specificities of the reservation system and would also inform them about the range of documents required to travel with an assistance dog. Additionally, the airline company undertook to clearly specify the documents required to travel to the United Kingdom

with an assistance dog in a separate menu item on the Hungarian version of its website and also undertook that it would inform directly the Hungarian assistance dog NGOs named by the complainant about these documents.

The Authority approved the parties' settlement by its decision. The airline company fulfilled its undertakings included in the settlement.

Visually impaired people can also buy tickets on the bus!
Case no. EBH/HJF/203/2019 – case concluded with a settlement

One of the Hungarian NGOs of blind and partially sighted people lodged a complaint with the Authority as actio popularis. According to the complaint, blind and partially sighted people could buy tickets only with difficulties at the complained bus company operating public transportation services. It meant that tickets had to be purchased in advance to point-to-point buses but this was only possible on the bus if there was neither a ticket office nor a ticket machine at the boarding station. However, tactile guide stripes were often leading to closed ticket offices, ticket machines were not accessible for the blind, and not all parts of the online ticketing process were suitable for the use by the blind and partially sighted. The complainant NGO complained also that there was typically neither acoustic passenger information at the stations nor personal assistance can be requested.

In the course of the Authority's procedure the bus company did not contest that their online ticketing surface was only partially accessible, however, they referred to ongoing developments in this field and alleged that otherwise they had taken all necessary measures to enable blind and partially sighted passengers to purchase their tickets from the bus driver. According to the company's statement personal assistance was provided by the staff of the given station upon telephone request. As to audible passenger information, the bus company also referred to ongoing developments.

Finally, the parties reached a settlement during the procedure. The bus company, in order to provide equal access to their services, undertook to indicate on their website in an accessible format the services they provide for blind and partially sighted people as well as to inform visually impaired passengers of the possibility to buy their tickets from the bus driver if there is no accompanying person with them. The company undertook also to inform the complainant NGO about the progress in setting up the acoustic passenger information system.

The Authority approved the parties' settlement by its decision.

Disabling websites of LGBTQI organizations
Case no. EBH/HJF/157/2019 – decision finding discrimination

The complainant organizations dealing with the protection of interests of lesbian, gay, bisexual, transgender, queer and intersex (LGBTQI) people and issues affecting them alleged that the complained local self-government did not make their websites available from its computer network. When visiting these websites, users received the following error message: "Access to the site from the local self-government's network is limited. CATEGORY: Enhanced_Gay_or_Lesbian_or_Bisexual_Interest REASON: BY_PRE_DEFINED". In the complainant organizations' point of view the local self-government violated the principle of equal treatment on the ground of sexual orientation and gender identity with the application of this measure. The complainants noted that websites of NGOs that were not LGBTQI organizations so were dealing with human rights in general, rights of Roma people, women or persons with disabilities were available from the local self-government's computer network.

As to their protected grounds, the complainants stated that as legal persons they could not possess any protected characteristics in contrast with LGBTQI persons and groups which could have such characteristics. However, this latter fact made the complaint well-founded by reason of discrimination through association. As to the suffered disadvantage, the complainants alleged that unavailability of the referred websites caused harm to them as well as to all members of the LGBTQI community. As groups in a comparable situation the complainants named other social groups or other minority groups having other protected grounds as well as groups and persons belonging to the majority in terms of sexual orientation and gender identity and they named also NGOs representing and protecting the interests of the above mentioned groups in this regard.

The Authority established that the complainants' websites were not available from the local self-government's computer network because of their gay, lesbian and bisexual contents i.e. there was a causal link between disabling the websites and the sexual orientation and gender identity of the complainants as well as of a larger but undefinable group of persons. Having established the causality between the protected ground and the suffered disadvantage, the Authority examined whether this differential treatment was objectively and reasonably justified.

In the course of the Authority's procedure the local self-government argued that they allowed their employees to visit solely work-related websites, i.e. websites which were necessary for that purpose, however, information contained by the complainants' websites were not necessary for work. Nevertheless, the local self-government also argued that they voluntarily had undertaken and was implementing their equal opportunities program, it employed an equal opportunities employee who

was solely responsible for such activities, as well as in the framework of its equal opportunities program it had cooperated with the LGBTQI umbrella organization and their members during working on chapters about sexual and gender minorities. The self-government referred also to its equal opportunities plan which was renewed every two years as a mandatory task. The complained local self-government alleged that even though it carried out extensive activities concerning equal opportunities it did not need information about the LGBTQI community that could be found on the complainants' websites because the relevant program was operated by a municipal company which was an independent legal entity. So it was this company that was dealing with equal opportunities issues and finally, the referred employee who was responsible for equal opportunities activities had access to the complainants' websites, i.e. these web pages were not disabled for her.

The Authority did not accept the above argumentation because websites of NGOs dealing with equal opportunities and protection of interests of other minorities for instance Roma people, women and persons with disabilities were not disabled. It meant that employees of the local self-government could deal with equal opportunities of these groups in the course of their work, websites of other minorities' NGOs were available from the local self-government's computer network. So, following the local self-government's argumentation, the availability of these web pages were necessary for their employees' work. Furthermore, the local self-government did not allege that only LGBTQI issues would be outsourced to the above mentioned municipal company of all equal opportunities issues that the municipality dealt with.

Beyond the above, the Authority did not accept the local self-government's argumentation as a reasonable justification because according to the applied web filter list containing about 170 categories, apart from the category „Enhanced_Gay_or_Lesbian_or_Bisexual_Interest", the blocked categories were obviously related to leisure time activities, had sexual content, were on the edge of lawfulness and unlawfulness or covered directly unlawful contents. However, web pages related to other leisure activities were expressly permitted as well as numerous social media websites. So it was clear from the content of the web filter list that numerous websites the contents of which were obviously not related to work were available for the employees from the local self-government's computer network with the permission of the self-government like fun videos or internet auctions. Nevertheless, on the basis of the range of the prohibited categories it could be established that in the local self-government's point of view gay, lesbian and bisexual contents were linked to categories concerning harmful, deviant and unlawful contents as data phishing or violence. According to the Authority this was of particular concern and exceptionally humiliating for NGOs dealing with LGBTQI issues as well as for the members of the LGBTI community. It is a generally known fact that sexual minorities often become victims of discrimination, they are one of the groups most exposed to prejudices at the societal level. The Authority had to assess in the light of this fact that the local self-government prohibited the complainants' websites as well as explicitly

gay, lesbian and bisexual contents themselves together with categories containing deviant contents significantly reinforcing, thus quasi confirming the pre-existing social prejudices with this applied measure.

Furthermore, the Authority did not accept the local self-government's argumentation as to permitting only web pages which were necessary to the employees' work since the IT system of the local self-government was used not only by their employees but also by the elected representatives of the municipality. Thus information provided by the complainants' websites were not available for them in the performance of their duties as local representatives, either. Additionally, according to the local self-government's argumentation it could not be alleged unequivocally that the filter setting targeted the websites of NGOs of the LGBTQI community. As to this argument, the Authority emphasized that also such a conduct or measure could constitute discrimination which did not intend or did not aim to discriminate, however, its effect led to the violation of the principle of equal treatment. Thus, discrimination could also occur without explicit purpose or intent.

In the light of the above, the Authority considered the complaint well-founded and established that the local self-government had violated the principle of equal treatment, thus direct discrimination had occurred. Therefore the Authority ordered the unlawful situation to be ended, prohibited the unlawful conduct for the future, ordered the publication of its final decision on the local self-government's as well as on its own website and imposed a fine of 1 million forints (3,300 euros approximately).

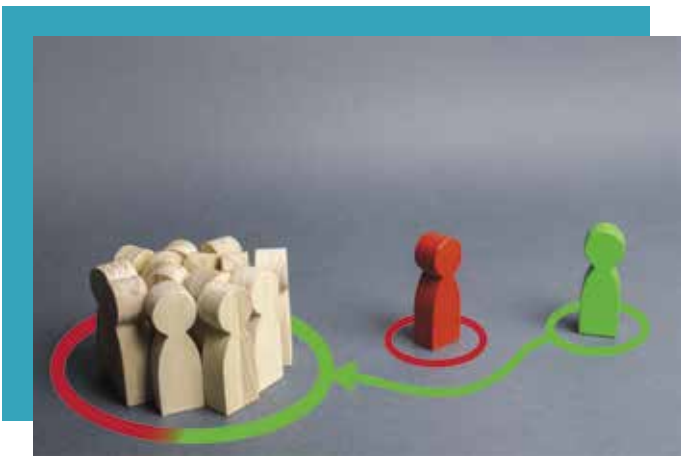
The local self-government submitted a request for review with the competent court against the Authority's decision, however, thereafter it revoked its lawsuit. Thus the decision of the Authority is final.

Propagation of municipal investments – skipped representative of the opposition

Case no. EBH/HJF/6/2019 – decision finding discrimination

The complainant was a member of the council of the complained local self-government having won his mandate in an individual electoral district. He complained that the name and the photograph of the representatives of the given individual electoral districts had been presented on information boards placed at the sites of municipal investments in all of the individual districts, however, in his district the mayor's name and photo had been featured. The complainant was of the opinion that his political opinion had been the reason for this differential treatment since all the other representatives, i.e. members of the council as well as the mayor had participated in the local elections as candidates of the same political party, except him. He had won his mandate with the support of an association.

The local self-government did not contest the facts alleged by the complainant, thus it could be established that it had been the self-government's practice that they had provided publicity for the representatives of the given individual electoral districts by information boards placed at the sites of municipal investments. Nevertheless, this possibility had not been provided for the complainant by the complained self-government in his own electoral district in connection with the investments realized there, thus he had actually suffered a disadvantage as a member of the local self-government's council. In the course of the Authority's procedure it could be also established that the mayor had appeared on the information boards of two investments in the complainant's electoral district. The mayor as well as other members of the council appearing on the information boards had been representatives of the same political party.



The Authority did not accept the argumentation of the self-government according to which the appearance on the information boards had depended on the personal contribution to the given projects so it had not been the political affiliation that had mattered. The following activities were mentioned by the local self-government as personal contributions: receiving and transmitting the signals of local citizens, visiting the sites of the investments, consultation with local citizens, holding public forums, submitting petitions to the mayor's office, asking for assistance from the competent municipal company via telephone,

lobbying, initiation, implementation monitoring, taking actions on repairs if needed, reporting on the projects. However, in the Authority's point of view, these activities had not exceeded the level of the normal and usual work of the members of the self-government's council. In addition, the complainant himself had also performed these activities in connection with the concrete investments in his individual electoral district. The mayor's activities concerning these investment projects had not gone beyond the usual contributions of an incumbent mayor, either. Based on the above, the Authority did not consider acceptable the argumentation of the self-government according to which local representatives featured on the information boards had provided such an individual performance for the implementation of the given projects which had been missing in the case of the complainant.

The complained self-government also alleged that there had been a communication methodological debate in the case of the information boards. However, they could not give an explanation of the followed communication methodology as a result of which in other individual electoral districts the local representative had been presented on the information boards while in the complainant's district the mayor had had to be featured. The principle of equal treatment shall also be observed in the course of municipal communication. The communication strategy of the self-government shall not put a local representative in a disadvantageous position on the ground of his or her political opinion or affiliation. It would have been necessarily in accordance with the principle of equal treatment if all members of the self-government's council had had the same opportunity to appear in the local newspaper as was referred to by the self-government, however, this could not replace the inequality of opportunities in the case of other communication forms. That was the reason why the self-government's argumentation could not be acceptable by the Authority.

On the basis of the above, the Authority held that the complainant had been discriminated against by the local self-government on the ground of his political opinion, thus direct discrimination had occurred. Therefore the Authority prohibited the unlawful conduct for the future and ordered the publication of its final decision both on the local self-government's website as well as on its own for 30 days. In the course of applying sanctions the Authority assessed in favor of the self-government that they were opened to reach a settlement throughout the procedure and made an actual and constructive settlement offer which would have eliminated the situation disputed by the complainant and would have compensated him, however, the complainant did not accept the offer.

Who was in hospital did not receive financial support for Christmas
Case no. EBH/HJF/12/2019 – decision finding discrimination

The complainant alleged in her complaint that in December 2018 she had suffered a disadvantage on the ground of her state of health since she had not received financial support from her village's local self-government because she had been in hospital at that time. She explained that in the first week of December 2018, with a

view to the upcoming Christmas, the self-government had given a one-time financial support in the amount of 15,000 forints (50 euros approximately) to all pensioners living in the village, however, she had not received this benefit. According to the complainant's argumentation even though she had been in hospital at the given time, she had also been living in the village.

In the course of the procedure before the Authority, the local self-government submitted that their council, with a view to the upcoming Christmas, had decided to give an extraordinary one-time financial support to the pensioners and recipients of pension-like benefits in the amount of 15,000 forints per person regardless of income in order to improve these persons' living conditions. This benefit had been provided to people living habitually in the village. The self-government also alleged that there were several people who had a domicile in the village, however, they had not been residing at their registered address for years. According to the self-government's knowledge the complainant had been hospitalized in the first days of August 2018 and had not been residing in the village since then. They alleged that the complainant's authorized representative had personally contacted the mayor to inform him about the hospitalization of the complainant as well as about that the complainant would be accommodated in a social home after leaving the hospital.

The Authority established that the complainant had been in a comparable situation with other pensioners living in the village compared to whom she had been treated less favorably and had suffered a disadvantage. The Authority also established that the complainant had suffered this disadvantage because of her hospitalization resulting from her state of health, i.e. there had been a causal link between her protected characteristic (state of health) and the suffered disadvantage. By virtue of Section 24 (b) of the Ebktv the principle of equal treatment shall also be observed in relation to provision of voluntarily provided social benefits. The Authority did not accept the self-government's argumentation in its decision because the complainant had been living habitually in the village until her hospitalization and her domicile featured on her address card (i.e. on the official document certifying the address of her domicile) had not been changed afterwards. Furthermore, the complainant had been residing in another settlement solely because of her hospitalization.

Based on the above, the Authority established that the local self-government had violated the principle of equal treatment by not providing the extraordinary financial support for the complainant on the ground of her state of health, thus direct discrimination had occurred. Therefore, as sanctions, the Authority ordered the unlawful situation to be ended i.e. the self-government had to provide a financial support in the amount of 15,000 forints for the complainant until 1 April 2019 and also prohibited the unlawful conduct for the future. The self-government fulfilled its obligations deriving from the Authority's decision.

The tender condition was not discriminatory on political grounds
Case no. EBH/HJF/69/2019 – decision rejecting the complaint

A mayor of a settlement lodged a complaint with the Authority because in his point of view he had been discriminated against on the ground of his political opinion by the president of the council of the county (hereinafter: the president) where the settlement led by the complainant was located. He complained that the area specific annex of the invitations to tender released in the county in the framework of Territorial and Settlement Development Operational Program had contained a condition which had provided 5 extra points to tender applications in the case of which the development had taken place in a settlement belonging to a specific geographical area. However, since the settlement led by the complainant was outside this specific area he had been ab ovo in a 5-point disadvantage when submitting his applications. He alleged that the decision on the disputed evaluation criterion had been made by the president so he wanted the Authority to proceed against him. In the complainant's point of view his political opinion was the reason for the president's decision since in the course of the municipal elections in 2014 solely in the settlement led by him had been elected a non-pro-governmental mayor and a council the majority of which was non-pro-governmental either in contrast with all the other settlements of the county. Nevertheless, he also noted that the president's antipathy towards him had been the reason for the decision on the disputed evaluation criterion. The complainant was of the opinion that this evaluation criterion could not be reasonably justified it had had neither legal basis, nor a professional or a regional development justification, so the sole purpose of the president's decision had been to put the complainant's settlement in a disadvantageous position.

The president, as the subject of the Authority's procedure, denied that the disputed evaluation criterion would be discriminatory on political grounds. He pointed out that this criterion had been only one point of the evaluation system stressed by the complainant, however it could not be possible to draw conclusions about the whole system solely upon this criterion. Eligibility conditions and evaluation criteria had to be examined in their complexity. The given evaluation system had had many criteria, there had been criteria in favor of one settlement and there had been ones in favor of another. The president mentioned as an example that there had been eligible criteria that had solely favored the settlement led by the complainant as well as the region where the complainant's settlement was located. He submitted also that the disputed evaluation criterion had had no clear impact on the outcome of tender applications since the settlement led by the complainant had also won several tenders which included the contested evaluation criterion. The president also noted that the complainant had initiated the amendment of the contested evaluation criterion before the council of the county. The council had discussed the complainant's proposal but finally had rejected it upholding and confirming the disputed criterion. Moreover, the complainant had already contested the given evaluation criterion before other forums as well like the police department of the county, the government office as well as the Prime Minister's Office, however, all proceedings initiated by him had been unsuccessful.

In the course of its procedure the Authority examined whether the complainant had been discriminated against on the ground of his political opinion by the president who had determined the contested evaluation criterion. As to the examination, the Authority took the data for settlements of more than 500 people of the county as basis since the settlement led by the complainant also belonged to this category. In terms of tender applications, county seats and settlements with less than 500 residents had been subject to different tender assessments.

The complainant alleged that his political opinion, which was different from that of the president, had been the reason for the president's decision on the contested evaluation criterion. The complainant came to this conclusion upon his own statement according to which in the course of the municipal elections in 2014 solely in the settlement led by him had been elected a non-pro-governmental mayor and a council the majority of which was non-pro-governmental either in contrast with almost all the other settlements and the council of the county where pro-governmental representatives were in majority. Nevertheless, the Authority established upon the data published on the official website of the National Election Office that in the course of the municipal elections of 2014, similarly to the complainant, *non-pro-governmental* mayors had been elected in 74% of the settlements of the county. Additionally, councils had been elected in 87% of the county's settlements *the majority of which was non-pro-governmental either*. As to the cities located in the county, it was also found that pro-governmental mayors and councils with a pro-governmental majority had been elected only in 30 % of the cities. Thus it could be unequivocally established that the data upon which the complainant alleged that he had suffered a disadvantage on the ground of his political opinion were not valid and reliable.

The Authority also established that more than two-thirds of the settlements benefiting from the 5 extra points had not been under pro-governmental leadership, i.e. had possessed the same protected characteristic as the complainant and in spite of this they had received the five extra points. Thus, the contested evaluation criterion had put far more settlements led by a non-pro-governmental mayor and council in a favorable position than in settlements with pro-governmental leadership had been. Therefore these data did not confirmed the complainant's point of view according to

which the reason for making the decision on the contested criterion had been his political opinion. In addition, it could be also held as well as was confirmed by the complainant that among the applied evaluation criteria there had been criteria that had favored him since due to territorial delimitations the given criteria had favored the tender applications of the settlement led by him and other settlements could not apply for these tenders with success. Furthermore, it was incontestable that the priority development of the region benefiting from the disputed evaluation criterion had been included in the documents related to the regional development of the county for many years, thus deciding on the 5 extra points had not been the president's ad hoc measure without any precedent.

On the basis of the above, the Authority concluded that even though the complainant had suffered a disadvantage as a result of the application of the contested evaluation criterion, it could not be established that there had been a causal link between his protected ground (political opinion) and the suffered disadvantage. Thus, it could not be established that direct discrimination had occurred.

Nevertheless, the Authority also examined whether the provision concerning the contested evaluation criterion had constituted indirect discrimination. Indirect discrimination would have occurred in the given case, if the contested evaluation criterion had put, to a considerably higher extent, the non-pro-governmental settlements in a position more disadvantageous than that in which pro-governmental settlements had been or would have been. However, almost 80% of the settlements in the county were not pro-governmental, i.e. possessed the same protected characteristic as the complainant. 80% of the settlements possessing this protected ground had benefited from the 5 extra points with regard to their geographical location. Thus, it could not be established that non-pro-governmental settlements had been put in a more disadvantageous position than in which pro-governmental settlements had been or would have been. Furthermore, on the basis of a table attached by the president about the winning tender applications it could not be concluded that settlements belonged to the specific geographical area in which the 5 extra points had been provided had had successful tender applications to a greater extent than settlements outside this specific area. Additionally, although among the cities of the county it had been only the city led by the complainant which had been located outside this specific area, thus it had not been able to benefit from the 5 extra points, it had had more winning tender applications than the average of the cities in the given beneficiary area. Consequently, as to the results of the tender applications there were no data indicating that direct or even indirect discrimination had been occurred in the case of the complainant.

With regard to the above the Authority established that the complainant had not been discriminated against by the president on the ground of his political opinion neither in a direct nor in an indirect way, thus the complaint was rejected.

The complainant mayor lodged a request for review with the competent court (Budapest-Capital Regional Court, *Fővárosi Törvényszék*) against the Authority's decision. In his lawsuit, he contested the Authority's assessment of the evidences, requested the reassessment of the available evidences, thus his purpose was to accept his statements having been made in the course of the Authority's procedure. In its judgment no. 105.K.700.183/2019/6 the court rejected the mayor's lawsuit. The court held that the Authority had correctly continued its investigation and had properly established the facts as well as it had fulfilled its obligation as to justification, i.e. had presented the relevant facts of the case clearly and convincingly and the conclusions drawn from the facts had been well-founded. Thus, according to the court, the Authority correctly had come to the conclusion that even though the mayor had suffered a disadvantage as a result of the application of the contested evaluation criterion, it could not be established that there had been a causal link between his protected ground (political opinion) and the suffered disadvantage. The court also shared the Authority's point of view that as to the results of the tender applications, there had been no data indicating that direct or even indirect discrimination had occurred in the case of the mayor.

Until when can a procedure be initiated?

Case no. EBH/HJF/103/2019 – decision rejecting the complaint without investigation on the merits

The complainant lodged a complaint with the Authority via his legal representative against the notary of a given settlement who acted as the head of the local election office in this case. He complained about that despite having applied in time his name had not been indicated in the proposal submitted to the council of the settlement, thus, unlike other applicants, he had not been elected as a member of the vote counting committee. The complainant became aware of not having been elected after the session of the council then inquired at the notary why he had not been among the elected members. The notary replied to the complainant on the fourth day after the council's session referring to the excessive number of applicants. However, the complainant considered that he had not become a member of the vote counting committee because of his political opinion.

Pursuant to Section 17 of the Ebktv the procedure of the Authority may be instituted to investigate the observance of the principle of equal treatment within one year after the violation became known if three years have not passed since the violation took place. Since it could be established upon the content of the complaint that the complainant had become aware of the violation more than one year before the submission of the complaint, which otherwise fulfilled the formal as well as the informal requirements, the Authority called the complainant for making a statement on the circumstances of becoming aware of the violation. On the basis of the complainant's response, it had to be established that the complaint had been submitted after the deadline specified by law, therefore the Authority rejected the complaint without investigating it on the merits.

The complainant lodged a request for review with the competent court (Budapest-Capital Regional Court, *Fővárosi Törvényszék*) against the Authority's decision. He alleged in his lawsuit that the date when he had become aware of the violation was not the date when he had learnt that he had not been elected and it was not the date when he had received the notary's response, either. He argued that the date of becoming aware of the violation was the moment when he had got the idea for the reason for his absence from the list of applicants for the vote counting committee i.e. when he had come to the conclusion that the reason had been his political opinion and it had come to pass months later, after several unsuccessful attempts to find a reasonable explication to what had actually happened.

In its judgment no. 105.K.700.245/2019/9 the court established in agreement with the Authority's decision that becoming aware of the violation meant becoming aware of the conduct or measure complained and the evolvement of the complainant's subjective convincement about the unlawfulness or legal assessment of these measures or conducts cannot be considered as becoming aware of the violation. According to the court, searching for possible reasonable causes on the part of the complainant had not been a condition of the Authority's procedure. The objective three-year deadline laid down by Section 17 of the Ebktv does not mean the overwriting of the one-year deadline counted from becoming aware of the violation but provides effective remedy. So the referred provision provides that if the occurrence of the violation and the date of becoming aware of it are significantly separated in time the complainant i.e. the person who wants to submit a complaint to the Authority should not be disadvantaged. There was nothing relating to such circumstances in the course of the court's proceedings, thus it rejected the complainant's lawsuit.

OTHER CASES

Youth festival with age limit
Case no. EBH/HJF/320/2019 – decision on the termination of the procedure

The complainant would have liked to participate in a youth festival organized by one of the Hungarian recognized churches every two years. He wanted to enter the event with his wife and their 9 month-old and 2 year-old children. However, the organizers refused their entry saying that the event was organized for people between 14 and 35 years old and the complainant and his wife did not meet this condition because of their children. In the complainant's point of view the age of his children was the reason for his refusal to enter, either.

After receiving the Authority's notice about the ongoing procedure against the complained church, the councilor of the church's synod informed the Authority about the fact that the given youth festival was a highlighted youth event of the church with Jesus at its focus gathering thousands of young people every two years in order

to listen to God. The rules of the event were determined by internal norms of the church. The councilor of the synod submitted that the youth festival had a dual purpose. One of the purposes was experiencing that "Christian faith is modern, cool, current and Jesus still has many young followers today". The other purpose of the event was addressing the "seekers" and strengthening young people who already believed in the gospel which meant the transmission of the message that "God loves these young people who are the miraculous creatures of God". The councilor of the synod declared that at the festival of 2019 they had wanted to show that love and kingdom of God surrounds us "even if we did not feel it before or have not known it yet". Additionally, the councilor stated that the complainant and his wife would have entered the festival if they had taken care of the supervision of their children outside the territory of the event. He also referred to the resolution of the synod's youth's office in this regard. According to this resolution, the given festival had been for teenagers and young adults so people between the ages of 14-35 had been welcomed. It contained also that human resources of the organizers had made it possible to hold the event only for this age group, persons who had already had families had been welcomed to the organizer team since the organizers could not provide children supervision for the participants, only for the volunteers, speakers as well as invited guests and for the organizers themselves.

Pursuant to Section 6 (1) point c) of the Ebktv the scope of the act shall not cover legal relationships of religious communities directly related to their faith-based activities. Upon the statement of the councilor of the complained church's synod it could be clearly established that the youth festival organized by the church had been an event directly related to the given religious community's faith-based activities. Thus, in the lack of the condition specified by law for the commencement of the procedure of the Authority i.e. in the lack of its competence, the Authority decided on the termination of the procedure.

Calculation of deadline when the violation exists continuously in time
Case no. EBH/HJF/450/20/2017 – decision finding discrimination

In this case it was contested, inter alia, between the complainant organization and the complained party whether the complainant had submitted its complaint to the Authority within the time limit provided for by law.

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

According to the interpretation and consistent case-law of the Authority, when the violation is existing continuously in time the starting date of the deadline, i.e. the starting date for submitting a complaint begins after the termination of the violation, i.e. after the termination of the existence of the infringement regardless of the fact that the complainant may have been aware of the infringement even before that.

In the given case, in its judgment no. 15.K.700.064/2018/21 the competent court (Budapest-Capital Regional Court, *Fővárosi Törvényszék*) took the opposite view. The court stated that neither Section 17 nor other provisions of the Ebktv made any difference between the subjective and objective time limits relating to the submission of the complaint or concerning the calculation of the deadline on the basis of the nature of the infringement. So, there was no provision prescribing that when the violation was existing continuously in time the time limit laid down in Section 17 of the Ebktv did not begin until the termination of the infringement. The judgment pointed out that according to the subjective deadline included by Section 17, the Authority's procedure might be instituted to investigate the observance of the principle of equal treatment within one year after the violation had become known which regulation, in the lack of any different concrete provision affecting the beginning of the one-year period or its calculation, should be applied even if the actual or presumed violation was continuously existing in time one year after becoming aware of it. The court was of the opinion that becoming aware was a question of fact, so the "first" date of becoming aware, in lack of any different provision provided for by law, started the subjective deadline. The relevance of the date of becoming aware could not depend on the Authority's assessment because the Ebktv's provision concerning the one-year subjective deadline was a coercive legal order. Therefore, since more than one year had passed from the "first" date of becoming aware to the date of submitting the complaint in the concrete case, the complaint had been late, i.e. it could not have been investigated on the merits. The Authority appealed the court's decision before the Hungarian supreme court (Curia of Hungary, *Kúria*).

In its decision no. Kfv.III.37.881/2018/6 the Curia of Hungary as the court of second instance annulled the court's judgment and obliged it to conduct new proceedings. The second instance court established that the first instance court had made

its decision based solely on the text of the law when deciding the issue, however, this had resulted in an interpretation contrary to the purpose of the act. The court pointed out that when interpreting Section 17 of the Ebktv not only grammatical but logical, taxonomical as well as teleological interpretation should also be applied. In the court's point of view, looking at the Ebktv, including its preamble, as a whole a clear legislative intention could be identified according to which effective remedy should be provided also for those who had suffered a disadvantage as a consequence of an unlawful conduct or violation existing continuously in time. The second instance court concluded that it should be examined in every case whether the complaint had been submitted within the prescribed time limit with regard to the nature of the infringement and all the circumstances of the case. The second instance court established in the concrete case that the complaint had been submitted within the one-year subjective deadline calculated from when the violation had become known and the violation had been existing continuously i.e. it had been existing at the date of the submission of the complaint as well as at the date when the Authority had made its decision. Thus, the Authority had lawfully instituted its procedure and the court of first instance had incorrectly taken the opposite view. The second instance court's decision declared in principle that "subjective time limit laid down in Section 17 of the Ebktv has to be calculated from the date of becoming aware of the violation. In the case of a violation existing continuously in time when the complaint is submitted, deadlines concerning the institution to investigate the observance of the principle of equal treatment i.e. deadlines concerning the institution of the Authority's procedure don't even start."

III. INTERNATIONAL ENGAGEMENT

Just as in previous years, in 2019 the Authority continued its active engagement in the work of European Network of Equality Bodies *(Equinet)*. Staff members of the Authority participated in four Equinet working groups. They had been working actively in *Gender Equality, Equality Law, Research and Data Collection* as well as in *Communication Strategies and Practices* working groups. One of the Authority's legal officers attended the capacity-building workshop on unlawful profiling organized in cooperation by Equinet and the *European Union Agency for Fundamental Rights (FRA)* in the course of which, inter alia, the following publications were presented. The participants of the workshop could get to know in detail the FRA's guide on prevention of unlawful profiling *(Preventing unlawful profiling today and in the future: a guide)* published in 2018 as well as a factsheet and a compendium of Equinet on the same topic *(Equality Bodies Countering Ethnic Profiling: Focus on Law Enforcement Authorities in Europe, Compendium of Promising Practices on Ethnic Profiling)* published in 2019. The Authority's digital communication officer participated in the training on narrative building and storytelling organized also by Equinet especially to communication experts and he took part in the meeting of the Communication Strategies and Practices working group taking place after the training as well.

The Authority was represented at the high-level conference of *Council of Europe's European Commission against Racism and Intolerance (ECRI)* taking place in Paris the motto of which was "On the Road to Effective Equality". The conference dealt with the new problems and challenges of combating racism and intolerance. Apropos of the 25th anniversary of the establishment of ECRI, the representatives of the Commission took a stock of the progress achieved as well as of the present and emerging challenges such as handling artificial intelligence and discrimination or tackling hate speech.

In the course of the meeting of the sub-group of *High Level Group on Anti-Discrimination, Equality and Diversity* the representative of the Authority shared with other participants the good practices that were in line with the *European Commission*'s recommendation on standards for national equality bodies having been announced in 2018. The participants exchanged their experience and opinions on issues such as independence, effective operation, leadership of national equality bodies, selection practices and mandates of leaders, strategic litigation and cooperation with civil society. The Authority's representative presented to the participants the procedure, activities and organizational structure of the Authority as well.

The president of the Authority received the *Commissioner for Human Rights of the Council of Europe* and her colleagues who were interested, inter alia, in discrimination against women and the promotion of their equal opportunities, the independence of the Authority and also in the investigations conducted by it.

The head of the Authority's Administrative and Legal Department received the representatives of *Council of Europe's Advisory Committee on the Framework Convention for the Protection of National Minorities* who visited the Authority during their fifth country visit.

IV. COMMUNICATION AND PARTNERSHIP

Section 14 (1) points e) and g) of the Ebktv prescribe that as part of its public responsibilities, the Authority shall regularly inform the public and the Hungarian parliament about the implementation of the principle of equal treatment. Raising awareness of this principle and the applicable legal remedies is one of the Authority's services provided for by law. The relevant responsibilities are performed by the Authority's Communication and Partnership Department. This unit is responsible for making sure that the public is informed about the Authority's procedure, as well as about guaranteed rights against discrimination and the possibility of effective remedy.

The Authority disposes of all the basic and necessary instruments of communication that it needs for the performance of its communications responsibilities. The communication plan for 2019 outlined the Authority's communication priorities and also specified the media and platforms where these messages would be disseminated. As in previous years, in 2019 the plan defined dissemination of information about the Authority's procedure and legal remedy as a primary goal, in addition, it reacted to the 10th anniversary of the county equal treatment consultants' network with an all-year-round media campaign.

The primary target group of the Authority's communication services were those who are legally obliged to comply with the principle of equal treatment as well as groups of potential and actual victims of discrimination. The secondary target groups identified by the communication plan were organizations fighting against discrimination, public bodies (i.e. organs of the state), market players and representatives of the scientific sphere.

From communications perspective, 2019 was the year of the promotion of the network of equal treatment consultants. The Authority drew attention to the consultants' network with new creative design and communication messages which appeared at campaign events as well as in the most powerful mediating tools as the surfaces and the slogans of the Authority's website and Facebook page.

To promote the equal treatment consultants' network, a new set of logoed promotional tools was available mainly to reach young people. Furthermore, several online campaigns focusing on the schedule and locations of the consultants' opening hours strengthened the access to the traditional local information exchange system.

Animations and creatives prepared according to current trends reached millions of people, newspaper readers and web users at campaign events in the counties as well as on the online surfaces with the messages outlined in the communication plan.

The framework of knowledge sharing in 2019

Besides the media campaign called "The Equal Treatment Consultants' Network is 10 years old", the strength of the year of 2019 was knowledge sharing. Along with the distribution of thematic EBH Booklets, another professional publication was made within the series. The fourth wave of representative research examining the patterns of discrimination was completed the research volume containing the results can be read in Hungarian and also in English on the Authority's website. As a result of many years' professional endeavor, training with the accreditation of the Authority's curriculum became available to the entire personnel of public administration in their further education system.

EBH Booklets

The Authority launched its series of thematic publications called **EBH Booklets** in 2015. The goal of this periodical is to use individual cases investigated by the Authority to present a broader set of behaviors that are against the principle of equal treatment along with legal remedies and methods to those who have experienced discrimination and who are legally obliged to comply with the principle of equal treatment. Through this series the Authority wishes to help prevent and recognize discriminative behaviors as well as to reinforce the awareness of rights and the spread of behaviors that comply with the law. The volumes of the series are available on the Authority's website and the distribution of hard copies is also continuous.

The first booklet in the series concerned the topic of workplace harassment and the second was published under the title *Harassment in the Area of Education*. Having been published the third volume on *The use of other situation as a protected characteristic in the Equal Treatment Authority's application of the law and the fourth* on *The experience of the Equal Treatment Authority with discrimination in the area of education* as online publications in Hungarian and also in English, all volumes were published also in print and their dissimulation began. The dissimulation of hard copies of the fifth volume under the *title Multiple discrimination in the Equal Treatment Authority's case-law* came to pass in 2019.

In 2019 the sixth volume of the series was completed with the title *The Hungarian Equal Treatment Authority's work and case-law in the area of discrimination in healthcare* which was published also in print at the end of the year.

Ever since its creation, the Authority has been receiving complaints relating to healthcare. Generally speaking, these complaints concern the denial of some healthcare services or their improper provision, harassment that the complainants experience during the use of healthcare services, problems with the accessibility of these services or there are also complaints regarding a healthcare institution's decision about not hiring someone. Furthermore, there were cases in the field of healthcare when the Authority initiated ex officio proceedings. Thus, in the past years the Authority investigated

numerous cases and as a result it has amassed substantial experience in this field. This provides the Authority with a special assortment of experience and knowledge on this topic which is unique both in form and substance. Consequently, the Authority found it beneficial to share this experience to help the victims of discrimination i.e. persons who are looking for effective remedy as well as persons, organizations and other legal entities that are obliged to comply with the principle of equal treatment and those that simply apply the law. These were the reasons for the choice of discrimination in healthcare as the topic of the sixth volume of the EBH Booklets series.

The sixth booklet presents the main points of anti-discrimination law in the field of healthcare, than analyses the case-law of the Authority *via 28 individual cases*. The publication revolves around three major themes according to the following. Healthcare service providers or their controlling institutions may act as *employers*, they may interact with people in *the performance of healthcare services* or, if certain legal conditions are met, they may be subject to the legal requirement of ensuring equal access to their services.

The volumes of the above referred booklet are available on the Authority's website in Hungarian and in English as well, their hard copies are dissimulated in professional circles and preparation works of a training and professional dialogue aiming to share the experience of the Authority in the field of healthcare have also started.

Research program

Within the research program of the Authority, the fourth wave of the research on legal awareness in relation to equal treatment was completed in 2019 in cooperation with the researchers of the Institute for Sociology of the Centre for Social Sciences of the Hungarian Academy of Sciences. The study published under the title *Personal and social perception of discrimination and legal awareness of the right to equal treatment,* besides the outcomes of the year of 2019, also includes a comparative analysis of the results of the three previous waves of the research conducted in 2010, 2013 and 2018 and uses these to infer long-term trends in addition to describing recent developments.

The research program of the Authority has been examining the trends and mechanisms of discrimination since 2010. In light of the fact that there are no other ongoing and publicly available research projects that also track changes in discrimination mechanisms, it is worth to provide a brief overview of the research topics.

Starting in 2010, the Authority's research work focused on discrimination mechanisms in four fields of employment and two fields in public administration. Then a series of research conducted in four consecutive waves on a national representative sample revealed experienced practices that resulted in discrimination also exploring causal links with a special focus on the experience of protected groups of women, Roma, and persons with disabilities.

Between 2010 and 2013, a significant rise could be found in the legal awareness of Roma women which simultaneously indicated a special form of multiple discrimination, namely intersectionality (intersectional discrimination describes a situation when several protected characteristics apply at the same time and their respective impacts interact in a way that renders them inseparable). The fifth volume of the EBH Booklets series published in 2018 on multiple discrimination was also a reflection of these research findings.

In the third wave of the research work, between 2013 and 2017, another striking result that outstood from the data was that all groups with protected characteristics showed an increase in perceptions of discrimination, and one of the new trends was that property (financial status) and social origin emerged as the most dynamically growing reasons for discrimination.

With the research completed in 2019, a retrospect to the last decade has become possible as to the recognition of discrimination and possible responses to it.

The results of the research of the last year compared to the previous ones largely reflect continuity and invariance, however, in some cases the data point out novelties in the context of the social climate in which the sample representing the population as a whole live its daily life. The post-crisis economic recovery and the influx

of EU funding reshaped the labor market in this decade. The emergence of labor shortage put the younger and mobile age groups the members of which are able to work and adapt to changing conditions in a better position and it could provide at least public work for the uneducated masses stranded in the lagging regions while families with many children living in poorer, especially in segregated areas, were left out not only of benefits but also of employment opportunities. Meanwhile keeping "migrant danger" on the agenda at the focus of government policy gradually increased xenophobia and intolerance towards persons belonging to other ethnic groups, homophobia and prejudice towards LGBTQ+ persons were also increasing as a side effect. The representative sample examined in the course of the research revealed a society that is highly divided, almost split in two, even if persons that are successful and by and large get along form the larger part of society. The questionnaire research highlighted the personal components of willingness to discriminate and confirmed the previous research findings on fault lines between social groups. The research strengthened the responsibility and influential role of the Authority as an institution which serves social integration by keeping on the agenda the principles of equal rights, equal treatment and equal opportunities as well as by providing effective remedy for the victims of discrimination in a polarized society.

It is forward-looking and presumably due to the Authority's intensive communication services from 2010 onwards that, upon the above mentioned research, the approach according to which "Everyone is entitled to equal treatment!" is spreading even if the voices in this regard are often suppressed by the divisiveness and willingness to discriminate that pervade the social atmosphere for the time being.
In the perspective of the last 10 years with regard to the 15 years of the operation of the Authority, it is more than important to underline that the declining trend measured in 2019 appeared in the personal experiences of discrimination as a new factor.

Respondents mentioned personally experienced discrimination less frequently in connection with each protected characteristic in 2019. Discrimination on the ground of age, property (financial status), state of health and social origin decreased most significantly based on personal experience of the respondents.

This result is particularly important because overall, by comprehensively assessing the entire decade from 2010 to 2019, the most frequent grounds for discrimination were stable over the past 10 years with age remaining the most frequently mentioned reason for discrimination and over the course of this 10 years gender, state of health, social origin and/or property (financial status) were mentioned as the top five reasons for discrimination besides age.

Awareness of the Ebktv also increased. In 2019, half of the respondents believed that there was a law that protects people from discrimination. The awareness of the Authority showed an explicit increase in relation to 2010 and it seems as though the approximately 40 percent (overall) social awareness of the Authority is stabilizing for the time being.

From the perspective of the Authority's strategic approach, a key objective of the research project's examination of legal awareness is to map those ongoing processes that could orient the Authority's institutional strategy aiming at reducing discrimination and shaping societal attitudes.

All of the volumes of the studies published within the Authority's research program are available for download on the Authority's website. Printed copies of the volumes were first placed on the free shelves of university libraries and were got into the distribution circle of the county equal treatment consultants' network. Hard copies of the volume containing the results of the 2019 research under the title *Personal and social perception of discrimination and legal awareness of the right to equal treatment* will be completed in early 2020.

The curriculum about anti-discrimination law and the Authority's procedure

The appearance of the curriculum about the principle of equal treatment in the adult education system brought significant results in 2019.

In 2014 the Authority prepared and published the curriculum *Application of Act CXXV of 2003 on equal treatment and the promotion of equal opportunities* to inspire higher education and adult education systems to introduce it. The accredited further education training based on the above mentioned curriculum under the title *The Enforcement of the Principle of Equal Treatment* was integrated to the further education program of the personnel of public administration in 2015, however, the access to this educational program was narrow, i.e. it was only accessible to those who were dealing with the use of EU funds within their internal training program.

The compliance with the principle of equal treatment is mandatory in all legal relationships of the public administration, however, awareness and observance of this obligation is not actually promoted by the education system. Therefore it is justified to integrate a curriculum about the principle of equal treatment into the further education system of public administration with full access.

In 2019 the head of the Authority initiated a cooperation with the Institution for Further Education of Public Administration of the National University of Public Service in order to widely ensure the acquisition of knowledge and the application of anti-discrimination law for the personnel of public administration by the adult education system as a result of an accreditation process. The Authority supported this accreditation process with developing the training program *The Enforcement of the Principle of Equal Treatment in the Employment of Civil Servants* and with the screenplay of an attendance training under the title *Equal Treatment and the Promotion of Equal Opportunities* as well as by providing expert services. This training was integrated to the further education program of public administration in 2020.

Thematic training events

In connection also with the curriculum and in the framework of knowledge sharing, the Authority recommended its thematic training events concerning various fields of discrimination to institutions that operate in the specific fields that the events touched on. The first project was launched in cooperation with school district centers and pedagogical assistance services concerning discrimination in the field of education based on two of the Authority's EBH Booklets.

In 2019, the heads of school district centers participated in the training events of the Authority three times and the staff of pedagogical assistance services attended these events two times. This professional cooperation was initiated by the president of the Authority to exchange experience on the cases in which the Authority proceeded against school district centers, pedagogical assistant services and institutions of education. In the course of the training events, the experts of the field of education were introduced to the application of anti-discrimination law and the case-law of the Authority by the Authority's staff members and a joint professional dialogue about the relevant professional questions emerged as well.

Within this cooperation, legal officers of the Authority presented the relevant volumes of the EBH Booklets series *(Harassment in the Area of Education and The experience of the Equal Treatment Authority with discrimination in the area of education)* the hard copies of which were also given to the educational professionals. The relationship evolved with the education system is expected to have a positive impact on future work as well as on the proper application of the law.

The significant experience of the staff of the Authority gained during more than 80 trainings become particularly important in the forms of knowledge sharing based on personal encounter because the effectiveness of training in the field of education results in re-introduction of thematic training forms and involvement of additional fields of discrimination into the current system of the knowledge sharing of the Authority.

According to the plans, the next stage of the series of professional dialogue, linked to the EBH Booklet prepared and published in 2019, will be a training aiming at sharing the experience of the Authority relating to discrimination cases in the field of healthcare.

Public relations

The Authority's media presence became accentuated as a result of a comprehensive national media campaign organized in 2013. That was the year when the awareness of the Authority and the possibilities of legal remedies as well as of the procedures aiming at protecting human dignity increased substantially and it has remained consistently high ever since. The analysis of the impacts of the campaign showed that among the complex set of communication instruments of the Authority, the impact of visual communication tools was the strongest in terms of spread of the behavior which complies with the principle of equal treatment. According to that experience, in the Authority's communication of 2019 the tool system of visual communication was the most typical and the most powerful.

Information published on the Authority's website and its social media platform continued thematizing and generating the appearance of the Authority, its case-law and the principle of equal treatment in all media. The press reported on the activities of the Authority and the topic of equal treatment 70 times during the media campaign of the equal treatment consultants' network and more than 70 times besides this campaign. On 8 February 2019 an interview with the Authority's president came out in the newspaper *Népszava* under the title *If you are poor, you will be excluded – at least that is what people feel.*

egyenlobanasmod.hu

The Drupal-based website of the Authority developed in 2018 introduced equal access, new functions as well as an easy-to-use website administration system. In a review of electronic platforms of state institutions and courts in terms of accessibility the Authority's website was awarded a high score.

In 2019, the most important digital development on the Authority's website was the reconstruction of data recording related to the access to the equal treatment consultants' network which accelerated and clarified the transfer of data on the opening hours of the county equal treatment consultants in the content management by developing administrative interfaces of the consultants.

The website got a new design relating to the 10th anniversary of the equal treatment consultants' network. The colors of the media campaign *"The Equal Treatment Consultants Network is 10 years old"* appeared on the website, a new header video was made with the animation of the campaign as well as with the slogan of *"100% human – Live with it bravely!"*.

On the Authority's website, visitors could read 34 edited cases and 9 decisions the publication of which had been ordered by the Authority as a sanction. Users were reported on the case-law of the Authority in 39 posts in the web feed and on the Authority's social media platform. 2 video animations and 3 professional publications have become continuously available besides international news on the digital surfaces.

Similarly to EBH Booklets, the continuously available Frequently Asked Questions (FAQ) section of the website covers thematic legal fields based on the Authority's case-law, focusing for example on issues such as kindergartens and schools, assistant dogs, cases in which the established differential treatment cannot be justified, or pregnancy – with this method it generates significant interest even without a campaign.

Social media

The Authority's Facebook page continues to be an information platform with a wide public reach, steadily growing circle of followers and high user satisfaction. Its design, in line with the design of the Authority, embedded the video promoting the equal treatment consultants' network to its header.

Besides the dominance of the dissemination of information about the Authority's case-law, international content and the promotion of professional publications the Authority's Facebook page joined the campaign of the equal treatment consultants' network as an advertising surface. It made promotional info videos known and navigated the users to the section of the Authority's website containing information on opening hours of the consultants' network as well as to web pages on which the schedule and locations of the opening hours could also be read.

In 2019 40 posts appeared on the Authority' social media platform. Among these posts, 16 included edited information from the Authority's case-law, 21 contained items of professional news and 3 introduced the Authority's professional publications. During the media campaign of the equal treatment consultants' network the number of followers of the Facebook page increased by 2703 to 11455 users. The moderation of the page beyond the usual default settings is still not required.

The most popular item of news on the Authority's digital platforms generated nearly 6,000, the most popular advertisement more than 57,000 reaches. Published content was shared 358 times by users.

"The Equal Treatment Consultants' Network is 10 years old" media campaign

The Authority set up its nationwide equal treatment consultants' network in 2009 in order to make some of its services available to clients close to their place of residence at county and smaller territorial unit levels. The 10th anniversary of the

network was highlighted in 2019 by a complex media campaign. The aim of the campaign was strengthening the presence of the consultants' network in the county seats and also encouraging to seek effective remedies as well as conveying messages that raised awareness of the possibilities of these remedies.

The creative

The selected creative showed several human figures layered on top of each other in different colors with various protected grounds. The colors of the creative, namely pink and turquoise made the visual message modern and youthful so it could mark out from the advertisements with its color schemes. The slogan *of 100% human* emphasized and explained the message of the graphic of the human figure according to which everyone is entitled to human dignity. The call for *Live with it bravely!* referred back to this message in several ways, i.e. live bravely with the conscience of the whole human, do not commit, do not let and do not tolerate discrimination.

Posters, flyers, badges and fridge magnets

The badges and fridge magnets made for the campaign were suitable surfaces for the creative because they were spectacular and due to their size it was easy to take them in hand. The double-sided flyers informed their readers about how and to where a person who has been discriminated against can submit a complaint.

Poster campaign on institutional surfaces

Within the network of contacts developed during the campaign preparation period, more than 100 larger institutions of the county seats (theaters, community centers, museums, universities and sports facilities) set out the posters and flyers of the Authority. The equal treatment consultants also assisted this process through their local relations and beyond that they distributed the creatives and gifts made in the campaign.

Lookbike campaign

The lookbike was the main outdoor media surface of the campaign as well as a youthful, environmentally conscious and spectacular tool for displaying the messages of the Authority. The lookbike campaign created a direct connection with

the target group, was environmental friendly and did not merge into daily advertisements. Additionally, it compensated the otherwise serious messages relating to the society with its looseness and youthfullness. The affected cities by the lookbike campaign were Tatabánya, Győr, Szombathely, Kaposvár, Pécs, Székesfehérvár, Salgótarján, Eger, Miskolc, Szolnok, Szeged, Kecskemét. Promoters personally conveyed the main messages of the campaign and distributed flyers and logoed gifts to those interested.

Weekly newspaper Lokál Extra and local press

A half-page advertisement appeared in the weekly newspaper Lokál Extra in the course of the campaign which reached more than one million households in the 19 county seats of Hungary and in all districts of Budapest. Furthermore, in cooperation with numerous local media (pl. Csaba TV, Eger Városi TV, Szeged TV, Szekszárdi Rádió Antritt, Gong Rádió, Aktív Rádió) equal treatment consultants several times spoke to the press about the activities of the Authority, the possibilities of legal remedy and presented local cases as examples. Banners and PR articles were also published on the websites of local self-governments, in online newspapers of the counties as well as in the urban print media during the campaign period.

Vehicle advertisement – GYSEV

In order to reach target groups, effective animated vehicle advertisements ran on onboard screens of the railway lines GYSEV and passengers were also able to meet the message of the campaign on A3-sized posters on the vehicles. Quality time spent on the trains run on railway lines Sopron-Győr-Budapest, Sopron-Szombathely, Szombathely-Kőszeg, Szombathely-Csorna-Budapest, Csorna-Rajka, Szombathely-Zalaszentiván and Szombathely-Szentgotthárd provided an effective flow of information, in addition, lower communication noise also helped reach the potential target group.

The appearance of the campaign on the Authority's website and in social media

The Authority's website – egyenlobanasmod.hu

A spectacular header video was made for the website of the Authority, the menu bar and the sidebar block appeared in the colors of the campaign and a banner that came into view on each page was also added to the website. Visitors of the website could also meet the creative of the campaign which also strengthened the campaign elements that could be seen elsewhere.

Facebook

Three different campaigns ran on the Authority's Facebook page. The analysis of the statistics of the available advertisements in the online campaign and the characteristics of the reached target group can be used to organize additional campaigns. The one-month period of the video advertisement resulted in 214,084 ThruPlay views and 54,734 reaches. The like of the Authority's website increased by 2,703 people over three weeks as a result of the page-like campaign. The campaign traffic showed 4597 link clicks and 197 118 reaches between 22 October 2019 and 24 November 2019.

YouTube campaign

A seven-second short concise content was made to reach the Internet and advertising consumer audience in which appeared the message of *"100% human"* with the human figures that could be seen on the creative first separately and then layered on top of each other. This video was displayed 567,094 times and 1,053 clicks led to the Authority's website.

The video is available on YouTube under the link below:
https://www.youtube.com/watch?v=NQuof2732yI

Google AdWords keyword campaign

It is one of the most effective members of the online marketing toolkit because the user can get directly to the Authority's website with the click. With this campaign, those who were actively interested in the topic were addressed. The advantage of the campaign was that the Authority didn't have to stand out from the usual communication noise since the information was ab ovo aimed at searchers on the topic. Users, while searching, inevitably run through advertisements before the search results and the egyenlobanasmod.hu was among the first results such as the sub-pages of the equal treatment consultants' network and their opening hours.

Representative survey

After the campaign, its achievements were analyzed by a representative survey. The questionnaire research took place in the cities of Pécs, Szeged and Kecskemét with the participation of 302 people aged 16 to 65 years.

The results of this survey were largely in line with the results measured within the Authority's research program.

The awareness of the Authority among the respondents was 4.9% higher after the campaign than before. Among campaign elements most of the spontaneous mentions were given to the lookbike appearances and the message of *"100% human"*. The poster showed as a part of the survey was likeable to 76.5% of the respondents and its message was likeable to 89%. The activities of the Authority were assessed basically as positive by the respondents, i.e. the vast majority (92%) considered the activities of the Authority important and 87.4 % of the respondents considered important the operation of the equal treatment consultants' network as well. As to the consultants' network, 63.9% of the respondents would use its services and 80.8% would recommend it to others. The issue represented by the Authority, i.e. fighting against discrimination was considered important in an outstanding proportion (by 93% of the respondents).

In the course of the campaign, the advertisement of the Authority appeared a total of 7,969 times in Google search. The messages of *"100% human – Live with it bravely!"* and *"The Equal Treatment Consultants Network is 10 years old"* were directly visible on 10,000 flyers and 1,500 posters, in more than one million copies of a national weekly newspaper and in 70 local media, as well as on vehicle advertisements, within online campaigns and by lookbike use in 12 Hungarian cities.

V. COUNTY EQUAL TREATMENT CONSULTANTS' NETWORK

Bács-Kiskun County
Dr Edina Tóth
70/ 517 92 51 | edina.toth@egyenlobanasmod.hu

Baranya County
Dr Zoltán Gajda
70/ 217 93 23 | zoltan.gajda@egyenlobanasmod.hu

Békés County
Dr Gábor Csűri
30/ 925 74 54 | gabor.csuri@egyenlobanasmod.hu

Borsod-Abaúj-Zemplén County
Dr Regina Hronszky
70/ 269 43 80 | regina.hronszky@egyenlobanasmod.hu

Csongrád County
Dr Éva Kiss
30/ 275 25 20 | eva.kiss@egyenlobanasmod.hu

Fejér County
Dr Júlia Kócza
30/ 960 26 57 | julia.kocza@egyenlobanasmod.hu

Győr-Moson-Sopron County
Dr Edina Erdélyi
70/ 363 88 68 | edina.erdelyi@egyenlobanasmod.hu

Hajdú-Bihar County
Dr Krisztián Kovács
30/ 408 56 19 | krisztian.kovacs@egyenlobanasmod.hu

Heves County
Dr Lassánné Dr Ágnes Simon
30/ 266 65 10 | agnes.simon.lassanne@egyenlobanasmod.hu

Jász-Nagykun-Szolnok County
Dr Nóra Kormányos
20/ 251 51 92 | nora.kormanyos.simonne@egyenlobanasmod.hu

Komárom-Esztergom County
Dr Júlia Kócza
30/ 900 46 24 | julia.kocza@egyenlobanasmod.hu

Nógrád County
Dr Lassáné Dr Ágnes Simon
30/ 266 65 10 | agnes.simon.lassanne@egyenlobanasmod.hu

Pest County
Dr Henriette Enikő Tóth
20/980 65 00 | eniko.henriette.toth@egyenlobanasmod.hu

Somogy County
Dr Ferenc Kovács
30/927 44 87 | ferenc.kovacs@egyenlobanasmod.hu

Szabolcs-Szatmár-Bereg County
Dr Zsolt Szegedi
30/ 289 28 89 | zsolt.szegedi@egyenlobanasmod.hu

Tolna County
Dr Zoltán Gajda
70/ 217 93 23 | zoltan.gajda@egyenlobanasmod.hu

Vas County
Dr Ágnes Jójárt
30/519 88 38 | agnes.jojart@egyenlobanasmod.hu

Veszprém County
Dr Alexandra Fábián
30/377 42 72 | alexandra.fabian@egyenlobanasmod.hu

Zala County
Dr Ferenc Kovács
30/927 44 87 | ferenc.kovacs@egyenlobanasmod.hu

Equal Treatment Authority
Seat: 1013 Budapest, Krisztina krt. 39/B
Mailing address: Pf. 672. Budapest 1539
Telephone no.: + 36 (1) 795 29 75, Fax no.: +36 (1) 795 07 60
ebh@egyenlobanasmod.hu
www.egyenlobanasmod.hu

President: Dr Ágnes Honecz
Vice-president: Enikő Magyar

Administrative and Legal Department
Head of Department: Dr Katalin Gregor
Deputy Head of Department: Dr Judit Varga
Dr Júlia Babus
Dr Melinda Faragó
Dr Krisztina Horváth
Dr Adél Lukovics
Veronika Molnár
Dr Adrienn Pintér
Dr Annamária Pomykala-Gombos
Pongorné Dr Anna Menyhárt
Dr Júlia Tóth

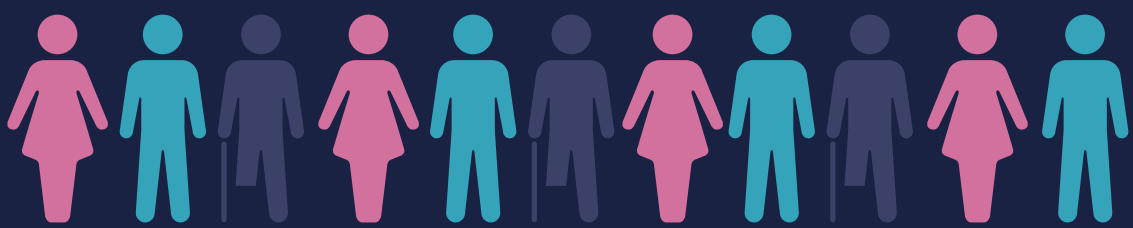
Department of Communication and Partnership
Head of Department: Dr Márta Pánczél
Levente Kollár
Andrea Wéber
Szilvia Zsell

President's Office
Dr Viktória Ágics
Endrődiné Tünde Magyar
Anikó Gönczi
Mrs József Janovecz
Mrs Gyula Kajos
Mária Gizella Kokas
Dr Zsófia Lennert
Lukácsiné Éva Földes
Anita Nagy
Rezső Győző Rendek
Adrienn Ványi

Department of Finance and Procurement
Head of Department: Ágnes Katalin Szabó
Deputy Head of Department: Chripkóné Róza Kosár
Krisztina Fekete
Barbara Dávid
Mrs István Hobay
Mrs András Mohr

ISSN 2631-0708

egyenlobanasmod.hu



Egyenlő Bánásmód Hatóság
Equal Treatment Authority