

Equal treatment and equal opportunities

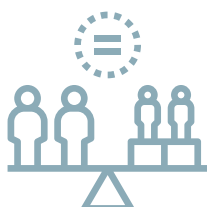


(2) Hungary shall guarantee fundamental rights to everyone without discrimination and in particular without discrimination on the grounds of race, colour, sex, disability, language, religion, political or other opinion, national or social origin, property, birth or any other status.

(4) By means of separate measures, Hungary shall help to achieve equality of opportunity and social inclusion.

THE REQUIREMENT OF EQUAL TREATMENT

No unjustified distinction may be made between persons or groups of persons on the basis of their protected characteristics (see Article XV (2) of the Fundamental Law).



ENSURING EQUAL OPPORTUNITIES

Reduction of existing social disadvantages through special measures or procedures.

According to Act CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities, the **conceptual elements** for establishing discrimination are as follows.



PROTECTED CHARACTERISTICS



DISADVANTAGE



COMPARABLE SITUATION

Forms of violating equal treatment:

DIRECT DISCRIMINATION

occurs when a person or group is treated less favourably because of its protected characteristics than another person or group in a comparable situation.

INDIRECT DISCRIMINATION

occurs when a measure is apparently neutral and unbiased, but adversely affects a proportionately greater number of those with the protected characteristics.

HARRASMENT

occurs when a person engages in conduct against a person with a protected characteristics that is degrading to human dignity and has the purpose or effect of creating an intimidating, hostile, degrading, humiliating or aggressive environment.

SEGREGATION

occurs when, on the basis of protected characteristics, certain persons or groups are separated from persons or groups in a comparable situation to them, without being expressly permitted by law.

RETALIATION

occurs when a person who has raised an objection or brought or participated as a party to proceedings for breach of equal treatment has to face disadvantage.



A remedy may be sought if the conduct of a public body, budgetary institution or body has been discriminatory or if the discrimination has occurred in relation to education, health care, housing, employment, the sale of goods or access to various services.

Special rule of taking evidence to assist enforcement

! **Shared burden of proof:** the aggrieved party does not have to prove that what happened was related to the other party's exclusionary intent, but only has to prove two plausible circumstances:

he or she has a protected characteristics

he or she has suffered disadvantage due to the other party's conduct

If the above is the case, **it will be for the party complained of to excuse himself or herself in the proceedings** and to prove that what happened **was not related to the protected characteristics of the complainant or to his or her affiliation with a particular group.**

The bodies examining the enforcement of equal treatment

Office of the Commissioner for Fundamental Rights

other authorities specified by the law

court

Minority Ombudsman

Directorate General for Equal Treatment

Minority Ombudsman

the procedure is not subject to a time limit

acts in accordance with the procedure of the Commissioner for Fundamental Rights only in the case of members of nationality communities in Hungary recognised by the Act of Parliament

may inspect documents, hear the persons concerned and conduct on-the-spot investigations

in the course of its proceedings, promote the peaceful settlement of conflicts

in the event of a violation of rights, make a proposal to the body under investigation or its supervisory body, the implementation of which cannot be enforced

if the complainant's case concerns nationality rights, decide whether to investigate the case within own powers or to propose that the Directorate-General proceed with the case

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Directorate General for Equal Treatment

the administrative deadline is 75 days

examines complaints under the administrative procedure

acts in the case of all complainants with protected characteristics listed in the Act on Equal Treatment

holds hearings and may examine witnesses in addition to examining the file

in the course of its proceedings, it must endeavour to reach an agreement between the parties

imposes fines and prohibit further infringements of the law

acts when the complainant expressly indicates in his or her complaint that he or she wishes the Directorate General to act or when the Minority Ombudsman makes a proposal to that effect

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**Office of the Commissioner for Fundamental Rights
Secretariat of the Deputy Commissioner for Nationalities**

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You can find detailed information and further INFO.sheets on the website nemzetisegijogok.hu

