

DISABILITY STUDIES

XVII.

FOGYATÉKOSSÁGTUDOMÁNYI TANULMÁNYOK



DISABILITY:
GOOD PRACTICES
(HUNGARY)

1st Edition

Eötvös Loránd University
Bárczi Gusztáv Faculty of Special Education

2009

Disability Studies “... examines the policies and practices of all societies to understand the social, rather than the physical or psychological determinants of the experience of disability. Disability Studies has been developed to disentangle impairments from the myths, ideology, and stigma that influence social interaction and social policy. The scholarship challenges the idea that the economic and social statuses and the assigned roles of people with disabilities are the inevitable outcomes of their condition”.

Society of Disability Studies, 1998



DISABILITY STUDIES – FOGYATÉKOSSÁGTUDOMÁNYI TANULMÁNYOK

The aim of this series is to build up a common background of scholarly knowledge of Disability Studies for students studying vocational rehabilitation at ELTE GYK.

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Ezt a könyvet csak digitalizált formában kínáljuk, kizárólag saját hallgatóink számára, a jogtulajdonossal kötött egy-szeri és kizárólagos megállapodás alap-ján. Bármely, írásos engedély nélküli to-vábbi előállítás (nyomtatás, másolás stb.) szigorúan tilos.

Lectori salutem!

This digital book is about some good practices, developed by Hungarian Republic in the recent decade on the field of disability.

You can find some informative documents in it, e.g.,

- the mapping of Disability Studies and disability organizations of Hungary,
- description of the Hungarian system of social inclusion and employment persons with disabilities and the system of vocational rehabilitation (this is not in force any more),
- a study of Prof. Csaba Banfalvy on unemployment of people with disabilities,
- an abridged version of the TOP200 research,
- the Hungarian Act on equalizing opportunities of persons with disabilities from 1998 (the text has changed a lot in the recent years and if we shall have the chance, we will replace this part of the digital book in the near future),
- the piece of the Hungarian equalizing opportunities legislation from 2003,
- the Hungarian Disability Program, and
- and, last, but not least, the newly reformed part of the Hungarian Civil Code (adopted by the Parliament in 2009 and will enter into force in 2010), on the regulations and procedures related to legal capacity

The Editor of this series is almost sure that most Hungarian readers will be proud of the contents of this element of our Disability Studies Series.

I wish all of our students a fruitful learning period.



György Könczei, Ph.D.
Series Editor

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DISABILITY RELATED
COUNTRY INFORMATION –
HUNGARY



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1. Country information: Hungary

[Barczy Gusztav Faculty of Special Education; leaflet](#)

[A Hungarian-English website on disability studies](#)

[A Hungarian language Moodle-based e-learning surface for disability studies](#) (you can choose the language at the upper right side of the site; please enter as a guest!)

[Another Hungarian language Moodle-based e-learning surface for disability studies](#) (you can choose the language at the upper right side of the site; please enter as a guest!)

[Disability History Touring Exhibit – English](#)

[Disability History Touring Exhibit – Hungarian](#)

Disability research networks

<http://www.fogyatekosugy.hu>

<http://www.serultek.hu/>

[Research Group of Vocational Rehabilitation and Disability Studies \(Budapest, ELTE University\)](#)

[Public Foundation for Opportunities of Persons with Disabilities](#)

[Hand in Hand Foundation](#)

[Hungarian Bliss Foundation](#)

[Salva Vita Foundation](#)

[4M Employment Service](#)

[Motivation Foundation](#)

[Disability Rights Advocates, Hungary](#)

[Department of Social and Work Psychology \(Debrecen University\)](#)

A new, Hungarian language quarterly in disability studies (Fogyatékoságtudomány) has recently been founded (there is no website yet).

National organisations of disabled people

[Council of Organizations of Persons with Disabilities](#)

[National Disability \(Affairs\) Council](#)

[Hungarian Association for Persons with Intellectual Disability](#)

[Hungarian Association of the Deaf and Hard of Hearing Persons](#)

[National Federation of \(Physically\) Disabled Persons' Associations](#)

[Mental Disability Advocacy Center](#)

[Down Association](#)

[Hungarian Autistic Society](#)

[Hungarian Association of Blind and Partially Sighted Persons](#)

2. Information about Hungary

[General data on Hungary](#)

[Virtual Tours in Hungary](#)

[About Hungary](#)

[E-inclusion in Hungary](#)

[Some wheelchair accessible apartments in Hungary](#)

[A social entrepreneur – Erzsebet Szekeres – in Hungary](#)

[The UN Convention and Hungary \(A press release\) and a statement](#)

[Hungary: Country Reports and Human Rights, 2007](#)

3. National reports on the situation of disabled people in Hungary

Article 15 of the European Social Charter is about the social inclusion and rights of persons with disabilities. Here you may find the [Fourth National Hungarian Report on the Implementation of the European Social Charter](#).

4. Statistical data on the situation of disabled people in Hungary

[Disability Statistics of Hungary](#)

[Hungarian/English Labour Market Statistics, 2003 \(please see: pp. 14, 122–124\)](#)

[Social Security Programs \(Disability, 2005\)](#)

5. Laws and social policies relevant to disabled people in Hungary

[National Disability \(Affairs\) Council](#)

[Ministry of Social Affairs and Labour, Department of Disability Issues](#)

[Social Policy Review](#)

Etc.

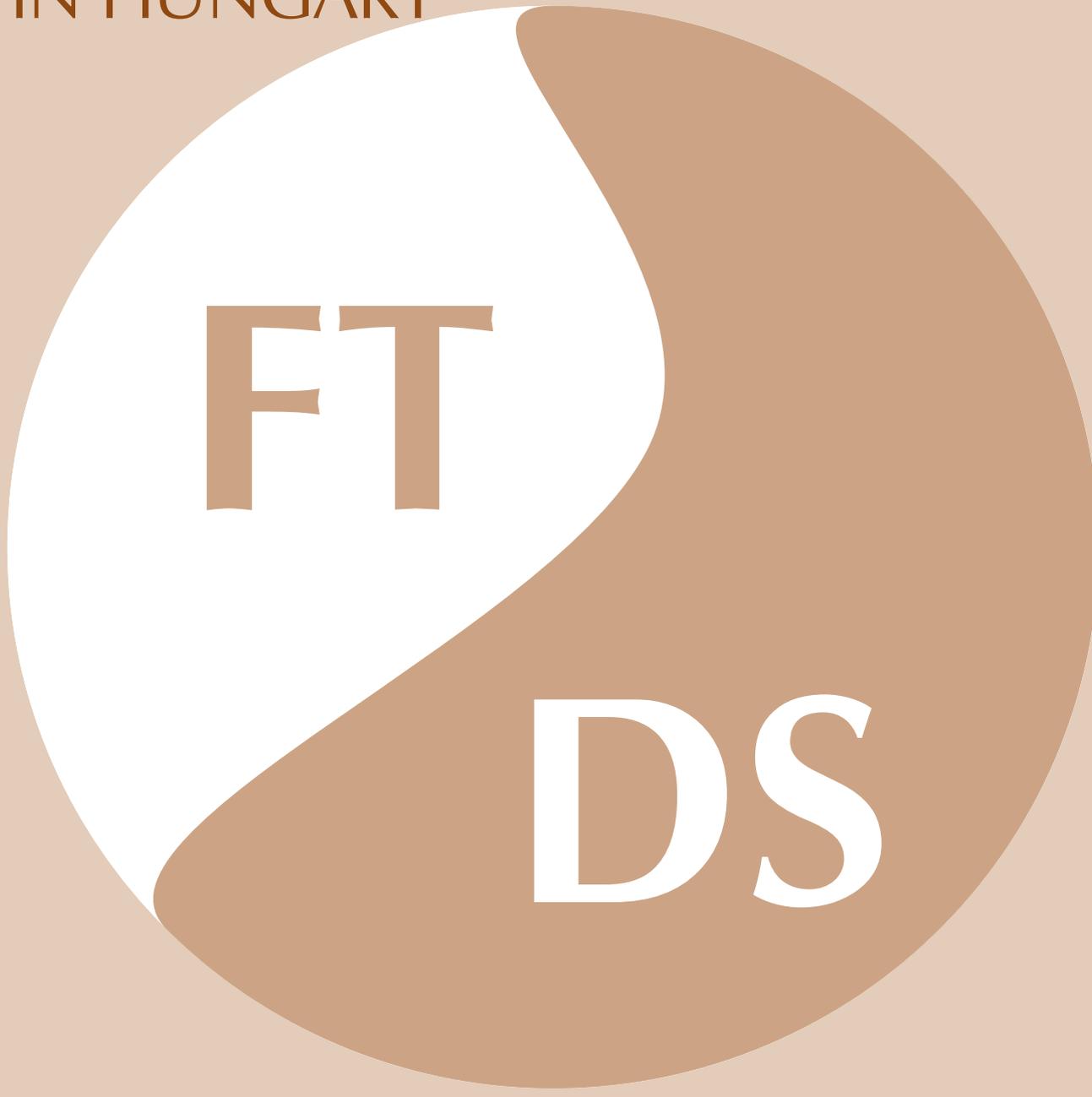
National laws and policies relevant to the social rights of disabled people

[The “Hungarians with Disabilities Act”: the text of Act No XXVI of 1998 on the Rights and Equal Opportunities of Persons with Disabilities](#)

[Hungarian Act CXXV of 2003 on equal treatment of men and women](#)

[National Disability Program of Hungary \(2006\)](#)

GENERAL EVIDENCE
AND SPECIFIC EXAMPLES
OF EMPLOYMENT
OF PERSONS WITH DISABILITIES
IN HUNGARY



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PART ONE: GENERAL EVIDENCE

1.1. Academic publications and research reports (key points)

Some of the most important, mostly internet-based publications in English

Disability related databases of Hungarian Central Statistical Office: Definitions and data

Frey, Mária – Ilona Gere 2006: Growth and Employment. The National Employment Public Foundation, Public Benefit Company for Employment Promotion (OFA Kht). Budapest

Hungarian Central Statistical Office 2002. Population Census 2001. HCSO. Budapest

Hungarian Central Statistical Office 2004. Hungary 2003. HCSO. Budapest

Laky, Teréz, et. al. 2005. The Hungarian Labour Market 2004. Employment Office, National Employment Foundation. Budapest

Krémer, Balázs 2008: People with Altered Working Capacities and the Labour Market. (in Hungarian). Revita Foundation, Debrecen

Kálmán, Zsófia – György Könczei 2002. From Taygetos to Equal Opportunities (in Hungarian). Osiris Publ. Co. Budapest

Könczei, György – Róbert Komáromi – Roland Keszi – Lilla Vicsek 2002. Employment of persons with disabilities and altered working ability using a database of TOP 200 companies. (Abridged version). The National Employment Public Foundation Public Benefit Company for Employment Promotion (OFA Kht). Budapest

KOPINT DATORG 2005. European Employment Strategy. Ways of Adaptability in New Member States. The Case of Hungary. Unpublished conference report. Budapest

List of key official documents on integration of persons with disabilities to the open labour market (in Hungarian)

Mental Disability Advocacy Center 2007. Guardianship and Human Rights in Hungary. MDAC. Budapest

Nagy, Zita Éva – Zsolt Pál 2008. Legal and Social Situation of People Living with Altered Working Capacities and Disability in Hungary and in International Perspective. Revita Foundation, Debrecen (Unpublished research report, in Hungarian)

Varjú, Tamás 2008: Special Elements of Services Serving Reintegration of People with Altered Working Capacities. Revita Foundation, Debrecen (Unpublished research report, in Hungarian)

Vocational Rehabilitation and Employment of Persons with Disabilities (an internet-based overview) – Hungary

A few key conclusions of the research:

1. Statistics

The number of persons with disabilities was assessed by the 1990 and 2001 censuses. The 1990 census reported 368 thousand persons with disabilities, whereas this population consisted of 577 thousand individuals in the 2001. This was 5.7 percent of the entire population of Hungary in those days. The data from the Central Statistical Office typically show an underestimation in the number of persons with disabilities. In our estimate it could be as high as 600 thousand. According to unpublished statistical estimations, the number of persons with disabilities is continuously increasing, it may reach 1 million by 2021 (following the present trend it may grow up to 968,000 – Habcsek 2005).

There are significant differences between the census data from 1990 and 2001. One reason for this may be related to the 11 years time difference. Another factor is the difference in sampling methods

because the 2001 collection targeted the full population of the country, whereas only 20 percent of the population was represented in the data collection in 1990.

2 In focus, but still somewhat blurry.

From a political science point of view and at the macro level persons with disabilities and their organizations have become one of the strongest pressure and lobby groups. This strength, however, is not reflected in the employment ratio. In terms of employment policy, a large number of people with disabilities remains in disadvantaged positions even at the beginning of the 21st century. This situation is determined by three strong influential factors (Könczei, 2007).

- i) Starting point: Hungary started from a deep level at the time of the regime change. Both the attitudes towards disability and the practices, as well as the level of resource allocations were rather low. Thus, no spectacular results or high standards could be reached during the past two decades including the last few years since Hungary has joined the European Union. An employment related example is the creation of accessibility. Before the political regime change, accessibility was only important for persons with disabilities, their service providers and for a handful of disability studies researchers. It was part of neither the dominant approach nor budget calculations. This is the reason why we are lagging so terribly behind, and the status quo cannot be reversed in a decade or two despite the introduction of strict rules on making public buildings fully accessible (Act No. XXVI of 1998).
- ii) Dependence on the budget. The measures of the separate decision making levels that are supposed to promote employment for people with disabilities are highly budget dependent and highly differentiated according to micro, mezzo and macro levels. It has been observed that in periods of budget cuts disability issues lose even their partial priority. During these times the power of the lobby is not even enough to retrieve its old resources, let alone going to fight for new ones – especially not at the level of the local self-government.
- iii) Need for paradigm shift: as opposed to the medical (rehabilitation) model the social model has not gained strong enough momentum, therefore persons with disabilities and their organizations are not in control of the scarce resources. A too large portion of these resources trickles away in the system and a substantially smaller portion reaches people with disabilities. (This is also true for employment, see details later).

3 Anti-discriminatory legislation and equal opportunity policy are not complemented by affirmative actions (Kajtár 2007, 30).

4. The employment of the classic groups of persons with disabilities is treated mostly as a social issue (passive care) rather than employment policy (active support) issues.

5. Research shows that their employment rate – proportionately is as little as 9–12 percent. This number varies from census to census; based on the census of 2001 it is 9 percent and based on the 2002 one it is 12 percent (Hungarian Central Statistical Office 2002, Hungarian Central Statistical Office 2004). Ninety percent of people with disabilities who are employed, work in segregated environments, mostly in large groups. Exact data are not readily available on non-segregated employment.

Most important lessons for good policy and practice are as follows: the Hungarian vocational rehabilitation and supported employment systems produce a number of innovative, feasible and distributable solutions. Most of them are adaptations of foreign models, but they are improved and tailored to local needs. We will briefly discuss a few of them in the following sections.

Although vocational rehabilitation is expensive it is a worthwhile investment on the long run. Internet published research results show that every € spent on supported employment brings €4.77 in return to society in the following 5 years (Leadhem – Vég 2007).

Further research is needed in the following areas:

- i) Living conditions of people with disabilities,
- ii) Mapping out the interest system of employers and employees, i.e.: what interests drive employers to hire more persons with disabilities and how could be that number increased,

- iii) Creating the system of supported decision making,
- iv) Exploring the evaluation system, tools and methods of the 'ability to work',
- v) Exploring the pre-employment period – vocational rehabilitation – ; especially with regards to the role and interests of persons with disabilities.

In our present work, in order to be able to manage and follow up our results better, we take into maximum consideration sources of scientific value, first of all the English language ones, but from time to time a few Hungarian sources as well. We do not however take into consideration those Hungarian information sources that are lacking the scientific toolkit or are from this point of view specifically weak and have multiplied in numbers in the past period due to the EU support.

1.2. Employment statistics and trends (key points)

1.2.1 STATISTICAL DATA ON THE EMPLOYMENT OF PEOPLE WITH DISABILITIES IN HUNGARY.

Official statistics exist on the state supported forms of employment.

The collectors and providers of data are the following:

- i) on social employment: the Department of Family and Social Services of the Ministry of Social Affairs and Labour,
- ii) on the accredited employers: Employment Department of the Ministry of Social Affairs and Labour,

but the information they collect is only partially published and less accessible. Their data collection is poor therefore from the point of view of our analysis the quality leaves much to be desired.

The National Statistical Data Collection Program (unfortunately, it does not have a working website in June 2008) also collects myriads of data but since they do not ask particular questions about disability deeper analysis of these data is impossible. A case in point is adult education statistics: the data can be broken up into statistics by county, location of training, gender and level of education and adult education can be analyzed from this, but this data is not available for persons with disabilities.

1.2.2. EMPLOYMENT RATES FOR PEOPLE WITH DISABILITIES IN HUNGARY, COMPARED TO PEOPLE WITH NO DISABILITIES

Data we can call reliable is the following:

There is evidence on the employment of persons with disabilities; however, this is for the most part statistical evidence not conducive to deeper analysis.

According to the 2001 census (Hungarian Central Statistical Office 2002), the employment rate of persons with disabilities was 9 percent as compared to the 16.6 percent in 1990. Simultaneously, the unemployment rate of persons with disabilities increased to 2 percent from 0.7 percent. This could be explained by the fact that those involved became inactive in the meantime (from 57.5 percent to 76.7 percent).

Only one third of the registered unemployed persons with so-called reduced capacity to work were able to get a job on the labour market in the years 2000, 2001, 2002 and 2003.

Based on the census data it can be determined that 44.6 percent of people with no disabilities were employed in 1990. By 2001, this was down to 37.8 percent that can be accounted for by the aging of society (Hungarian Central Statistical Office 2001).

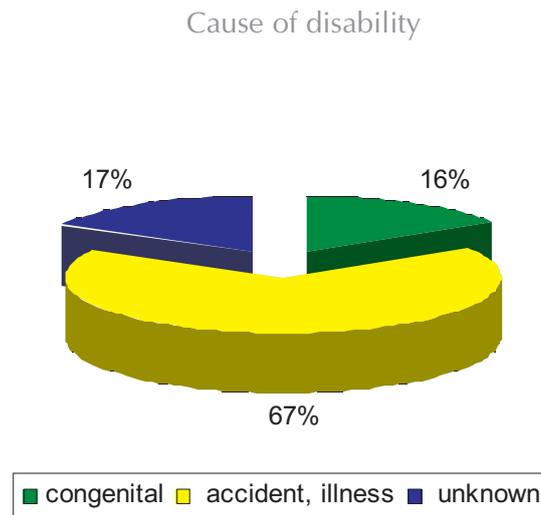
The previously mentioned very low employment rate of persons with disabilities suggests social exclusion. Social exclusion is partly a consequence of the low level of education of persons with disabilities. Integration is even more difficult due to the fact that rehabilitation services are only available in larger settlements, and buying the necessary equipments that would facilitate a more independent life is impossible from private resources alone.

Based on our knowledge it is evident that the position of women with disabilities is even worse than that of the men. Concrete empirical data only comes from the research TOP 200 ([unabridged version – in Hungarian](#), p. 101) for the top 200 companies with the highest revenue: “women with altered

working ability had a 3 percent less chance of getting a job than men.” And “women made up only 39 percent of all employed persons with disabilities or altered working abilities, while men accounted for 61 percent... Among Hungarian-owned firms, gender discrimination when hiring persons with altered working ability was higher than among foreign-owned firms where the gender ratio was more or less equal (52 percent men to 48 percent women).” pp. 5–6.

1.2.3. LIVING WITH DISABILITY FROM BIRTH?

DIAGRAM NO. 1
(SOURCE OF THE DATA: HUNGARIAN CENTRAL STATISTICAL OFFICE 2001)



A typical feature of the demographic composition of persons with disabilities is that a significant number of them are elderly since most of them were not disabled from birth. They became disabled due to disease or accidents as they advanced in age. The ratio of persons with disabilities above the age of 60 is 44.8 percent, more than twice as high as their ratio in the population as a whole. In most cases, a long-term disease (53.8 percent) causes disability. 17 percent of persons with disabilities have been living with some sort of disability from birth (Hungarian Central Statistical Office 2002).

Based on the above mentioned census data of 2001 the rate of employment of persons with intellectual disabilities and of persons with limited mobility are the lowest at 7 percent each. Persons with hearing impairment are at 11 percent. Persons with vision impairment are at 13 percent. It is important to take into account that in the latter two categories the hard of hearing and persons with limited vision have a higher rate of employment.

People born with disabilities require help from when they first look for employment since they enter the labour market as persons with disability. However, only persons receiving rehabilitation allowances are entitled to complex rehabilitation services. In their case, it is important to make a rehabilitation plan and to conclude a rehabilitation agreement with the Labour Centre.

Conversely, good portions of the vocational rehabilitation services are tied to social insurance legal status that can only be accessed by being employed. Therefore, when people born with disabilities reach the labour market they do not receive rehabilitation allowances thus they are not entitled to rehabilitations services either. The snake bites his own tail. This situation was not addressed by the Act of 2007 on Rehabilitation Allowances. This is a typical Catch 22.

We have no information on migrants with disabilities or people from ethnic minorities with disabilities.

1.3. Laws and policies affecting the employment of people with disabilities in Hungary

1.3.1 ARE EMPLOYMENT ISSUES OF PERSONS WITH DISABILITIES IMPORTANT FOR POLITICIANS AND POLICY MAKERS IN HUNGARY?

The question certainly requires a complex answer, as there are two pieces of legislation with significant employment implications. Act No XXVI of 1998 on the Rights and Equal Opportunities of Persons with Disabilities and the Act on the ratification of the UN Convention on the Rights of Persons with Disabilities were unanimously passed by Parliament, without blackballs and abstentions. Based on this the answer by all means is yes. At the same time the auxiliary regulations necessary for the implementation were not enacted, nor were the appropriate resources allocated. This prompted post facto rewriting of the provisions for the entering into force of the law.

1.3.2. WHICH LAWS OR POLICIES ARE MOST IMPORTANT FOR PEOPLE WITH DISABILITIES AT THIS TIME?

The most important legal documents are:

- Act No XXVI of 1998 on the Rights and Equal Opportunities of Persons with Disabilities,
- the National Disability Program of Hungary, and
- Act on the Ratification of the UN Convention on the Rights of Persons with Disabilities (in Hungarian).

Whereas the previous system preferred passive allowances (i.e. disability pension) and did not guarantee rehabilitation, the Act of 2007 on Rehabilitation Allowances placed the system on a new foundation. The emphasis on the decline in ability to work – the medical model – was replaced by an interdisciplinary review of the remaining ability to work based on which a rehabilitation plan was supposed to be drawn up. In turn, this could be the basis for a rehabilitation agreement entered into with the Labour Centre.

With the replacement of the previous non-target, subsidized system that was based on the level of disability the state support for the employment of people with disabilities got a new foundation.

1.3.3. THE ROLE OF THE NATIONAL EMPLOYMENT ACTION PROGRAMME

The National Employment Action Programme, in accordance with EU specifications, embodies employment policy with regards to people with disabilities. (Please see [a summary in English](#)). The essential facts included in it are the following:

“7.2.2. In addition to modernizing the institutional and implementation systems of vocational rehabilitation under the subtitle of employment market assistance service also does planning, including the following:

- implementation of technical and communication accessibility in the institutions of the National Vocational Service and the creation of four new rehabilitation information centres, and
- guaranteeing alternative labour market services with the involvement of non-profit organizations.”

The employment of persons with disabilities in public administration via the open labour market is promoted by the creation of so-called Equal Opportunity Plans. These plans provide detailed descriptions of all the tools and human resources suitable for the promotion of the integration of persons with disabilities already employed in public administration and which helps increase their number in the system.

Several ministries have appointed equal opportunities officers in order to facilitate the implementation of these plans.

1.3.4. ARE PERSONS WITH DISABILITIES INCLUDED WITHIN THE MAINSTREAM OF EMPLOYMENT POLICIES OR TREATED AS A SEPARATE GROUP?

The Hungarian situation is double-faced (Janus-faced). The labour centres deal with persons with disabilities; they register them and provide them with services. At the same time, due to the shortage of human resources and the lack of competence, tailor made services have to be purchased by the labour centres from civil organizations specializing in the care of people with disabilities.

1.4. Types and quality of jobs (summary)

The Government supports the transition from protected employment to the open labour market. However, at the same time, there are less encouraging signs.

1.4.1. SOME LESS ENCOURAGING SIGNS

The number of persons with disabilities on the Hungarian labour market is low; only as little as 9 per cent of them are active participants most of which are employed under protected circumstances. There are two forms of social employment i.e. two forms of social institutions. The first one is the work-rehabilitation type of employment based on the institutional legal relationship involving 5000 people. The other one functions under the Labour Code codifying normal employment. The latter one is the type of employment focussing on development and preparation and it involves 4000 people. The 2008 budget for this is HUF 5.6 billion (Government of the Republic of Hungary 2006, 5–6).

In 2008, 18,346 persons with altered working abilities were employed in 21 protected institutions (these do not come under the competition regulations of the Union). Their state subsidy amounted to as much as HUF 31.2 billion. Fifty so-called accredited employers coming under the competition rules of the Union receive as much as HUF 3.83 billion in compensation and they employ 12,075 people. The system originally created with healthy intentions has become unbelievably unbalanced and unjust due to inappropriate regulation. It also does not serve the interests of persons with disabilities. On the contrary, it is serving isolated lobbying interests. Therefore, it is in need of immediate radical reform.

As for employment in the open labour market, we might cite the results of the TOP 200 research: “A larger portion of the leading corporations in the sample, on average 58.1 percent, did employ persons with altered working abilities...” (Könczei et. al. 2002, p. 5.)

We have no detailed information on full- or part-time work. Persons receiving disability pensions may only work for a maximum of 6 hours a day

Public or private sector employment: in spite of the fact that a 5 percent quota exists and for refusing to observe it a levy is imposed it looks like the private sector is more willing to employ people with disabilities than the public sector.

‘Training’ placements vs. ‘real’ (paid) jobs: in the so-called social employment there are more training placements whereas the accredited employers offer more real paid jobs.

Employment in the social economy / social enterprises

In Hungary, the social economy is unable to become more robust and cannot create traditions within the community of people with disabilities...

1.4.2. SUPPORTED EMPLOYMENT

The Salva Vita Foundation plays the central role of this system. Its institutional and financing background has been built up but it has not become widespread to the extent necessary. (Leadhem – Vég 2007, Rácz – Varjú 2008, Salva 2006). The Foundation provided service for 192 persons in 2006.

Considering the available evidence employment activation policies for people with disabilities do not focus on specific kinds of work or specific types of jobs.

1.4.3. IS THERE ACTION IN SOME EMPLOYMENT SECTORS BUT IN NOT OTHERS?

It is possible to bring up several unique examples. Persons living with Down syndrome are employed in some service industry jobs as cleaners. In industries such as the handicraft industry employing people with disabilities is more dominant than in other industries but the available data does not disclose a clear pattern. For example based on the Economic Research 2007 they employ approximately 80,000 people with disabilities out of which 47,000 are employed by the processing industry.

Their employment is not characteristic in mining, financial brokerages and the hotel and restaurant industry.

Based on the available data we cannot say that some groups of people with disabilities would benefit more than others.

PART TWO: SPECIFIC EXAMPLES

2.1. Reasonable accommodation in the workplace

Specific support to make employment more accessible for people with disabilities

Provision of special equipment or adaptive technology at work is financed from the rehabilitation portion of the labour market fund through the labour centres. Personal assistance for people with disabilities at work is part of the expenditure compensation subsidy. It is not administered through the labour centres but directly through the ministry. 50 organizations receiving HUF 3.86 billion in subsidies which amount includes the overhead costs of these organizations (Department for Employment 2008).

State subsidies for work place adaptation, adaptive technologies and personal assistance are guaranteed. All of these are available on a competition basis every year until the funds are exhausted. The legal basis for flexible employment contracts is set up, however distance work, for example, as a systemic factor of high impact is virtually non-existent.

2.2. Other activation policies

Examples of positive action to support people with disabilities in employment, relevant to the EU Disability Action Plan

Financial incentives for employing people with disabilities:

- personal income tax allowances,
- corporate tax allowances for businesses with a payroll of less than 20 employees, sole proprietors and farmers are entitled to for employing people with disabilities.

This tax-allowance is available for hiring persons with a minimum of 50 percent altered ability. It can reduce the taxable income of the entitled businesses by the amount of the wages paid out to persons with disabilities but to a maximum of the minimum wage.

In Hungary a 5 percent quota/levy system is in place.

Job matching/profiling services and mapping of competencies are included in the individual rehabilitation plan. Employment and job coaching are also included.

Help with transport to work: within the framework of social services, the so-called Support Services provide housing that the employer can apply for from the Labour Centre.

Vocational training services – within the framework of adult education state subsidies can be claimed for training people with disabilities, i.e. in the framework of Public Employment Service the regional training centres provide training for people with disabilities according to the type of their disability. (This is not a mainstream type: the training centre in Székesfehérvár is specialized in people with physical impairment, the one in Pécs in people with intellectual disabilities, the one in Miskolc in people with visual impairment and the one in Debrecen in people with hearing impairment.)

2.3. One example of best practice

E.g. a policy, programme or case study

Macro level policy. In order to have the values and principles of disability issues prevail in all sectors as a horizontal priority, in the course of the preparation of the National Development Policy Concept of Hungary (the 'Concept'), the drafting of the professional policy tasks necessary to create an inclusive society is emphasised.

The Concept determines the long term priorities until 2020 which, if developed, will support Hungary becoming a competitive economy. The Concept has a separate criteria system. A similar principle has prevailed upon the determination of the priorities of the National Development Plans. These will pro-

vide the opportunity for the enforcement of equal opportunity in regional and economic development, environmental protection, agricultural policy and human resources development programmes.

Possible examples of the case study:

Salva Vita Foundation (supported employment),

Hand in Hand Foundation (Lantegi method – Spanish innovation: is about testing the skills of persons with intellectual disabilities and brings it together with their job description). In the whole Transdanubian region the 4M method was developed, based on the British model. The ‘you too’ (te-is) tolerance strengthening programme can also be mentioned.

PART THREE: SUMMARY INFORMATION

3.1. Conclusions and recommendations

A summary

People with disabilities get a role in policy making since employers providing a protected institutional framework and large organizations of people with disabilities are members of the National Disability Council functioning as an advisory body to the Government.

People with disabilities are included in employment activation policies/active labour market policies, but this inclusion is not successful yet.

The effectiveness of current policies is not particularly high. They do not attract more people with disabilities into finding work nor do they keep a high percentage of them at work. Because of the extraordinary economic cutbacks the efforts today can only go as far as making sure the results already achieved in the area of employment do not disappear and the situation does not deteriorate. There exist modern policies but in the present situation, the achievements already attained should be preserved due to the shortage of resources. This is the reason why we cannot speak about progress in the area of employment.

3.1.1. IS THE EMPLOYMENT SITUATION FOR PEOPLE WITH DISABILITIES IMPROVING?

In the area of vocational rehabilitation due to the injection of EU resources even in the middle run the prognosis suggests exponential development (based on the so-called Social Renewal Operative Program, SROP). In order to be able to maintain and develop these results even in the middle run the strongest possible internal and external consensus is required among the truly interested parties: i.e. a creative co-operation between the organizations of the affected groups, the most involved Hungarian experts and EU bureaucrats with real power in the area.

3.1.2. URGENT ACTION REQUIRED FOR CERTAIN PRIORITY GROUPS OF PEOPLE WITH DISABILITIES

The most disadvantaged actors in the Hungarian labour market are persons living with intellectual and psychosocial disabilities. Their situation is made particularly grave by the institution of guardianship and within that substitute decision-making, i.e. their complete de facto and de jure deprivation of civil rights, thus their legal death. In their case, the most urgent legislative reform-steps are required (Habeas Corpus – NANE 2002, 37; Könczei et. al. 2008; Mental Disability Advocacy Center 2007; Open Society Institute 2005).

Much more evidence is needed based on further research results addressing the following:

- i) Living conditions of people with disabilities,
- ii) Mapping out the interest system of employers and employees, i.e.: what interests drive employers to hire more persons with disabilities and what would increase that number,
- iii) Creating the system of supported decision-making,
- iv) Exploring the evaluation system, tools and methods of the 'ability to work',
- v) Exploring the pre-employment period – vocational rehabilitation – ; especially with regards to the role and interests of persons with disabilities.

3.2. References

This list focuses mainly on internet based publications in English

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Csaba Bánfalvy

UNEMPLOYED DISABLED PEOPLE



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Unemployed disabled people

As it is widely demonstrated in the literature, work is an organic element of life. The dominant form of work is paid employment in modern societies and unemployment can cause alarming harms for most of those who are left without a job (see e.g.: Allen, 1986; Jahoda, 1982; Warr 1987).

Employment is fundamental for a normal way of life not only for the healthy but also for people with disabilities.¹ Employment is the main source of income, it is a source of information, it creates the framework of social contacts, it determines the time budget of the people and it is also a basis of social status. Those who are unemployed face a great deal of financial, social and psychological difficulties. In short: employment is a basic necessity for many people in the modern society because it is one of the main determinants of the quality of life.

Still – at least in Hungary – when it comes to disabled persons, people tend to neglect this important aspect of life and think that for some reason employment is not so much a precondition for living a healthy way of life for disabled people as it is for other individuals. When disabled people are unemployed, people refer to their alternative source of income (e.g. welfare programs for disabled people or help from the family) and people forget that unemployment does not only mean financial difficulty but it is also a social and psychological challenge for disabled people. This goes as far as not counting disabled people living on welfare as part of the labour force and officially not considering them unemployed either (Bánfalvy, 2003, 2006).

In the following pages we use the findings from two research projects to demonstrate some of the problems connected with unemployment and the situation of disabled people in Hungary. We will also raise some theoretical questions concerning the meaning of unemployment in the case of disabled individuals and we will try to formulate our “involvement model” as a theoretically explanatory framework.

Research in the 1990s

One of our research projects conducted in the early and mid 1990s in Hungary focused on the adjustment problems of the unemployed in general, but we also collected data about the state of health and the possible disabilities of those in the sample. In that way we could compare disabled and the non-disabled unemployed people in their adjustment to unemployment.

¹ In this context we define “*disabled people*” as those with limited educational and social capacities in mainstream school and social settings due to some irreversible *organic impairment* and in the need of special education assistance. “*Special educational need*” (SEN) people, in this context, are those in need of special education assistance to fulfil the educational and social requirements in mainstream school and social settings due to *organic or non-organic causes*. In this paper the words “*healthy*” or “*normal*” always mean: not-disabled and it is used in a purely descriptive way. “Though different terminology is used in different national contexts there is a continuing struggle to find an acceptable language for special education. From ‘handicapped child’, to ‘child with disability’, to ‘child with a learning difficulty’, to ‘child who experiences difficulty in learning’ or ‘child who is considered to experience difficulty in learning’, there is a constant struggle to articulate more adequately the nature of what is meant and who is considered to have ‘special needs’”. (Florian 2007, 1).

In that research, sponsored by the Hungarian Academy of Sciences, we used written questionnaires and altogether there were some 5840 people questioned. In a later phase we made some one hundred taped interviews with unemployed people, public administration experts in unemployment offices and also with company managers. We also made a content analysis of four local and national newspapers writing about unemployment or the situation of the unemployed.

In a parallel research project we interviewed hundreds of adults, slightly mentally retarded (ex “special school” pupils) about their life and we asked them about their labour market history too.

Socio-demographic characteristics

There were 169 persons among the unemployed in the sample who declared to have some kind of disability (4.7 %), 105 men and 64 women. There were only 69 disabled persons among the employed or self-employed (the economically active), which means that the rate of disabled was 4.1% among the non-unemployed and that 61% of disabled people in the sample were not employed. The rate of the unemployed was higher among disabled people than among the non-disabled people and a majority of disabled people in the sample were without employment.

As far as *marital status* is concerned it is not only a fundamental determinant of the quality of life but it is also important from the economic point of view since the one person `family` is more sensitive to economic losses caused by unemployment than the two or more (adult) person families.

MARITAL STATUS OF THE UNEMPLOYED AND THE EMPLOYED (%)

Marital status	UNEMPLOYED		EMPLOYED	
	Disabled	Not disabled	Disabled	Not disabled
Married or live in common law	47.6	57.6	71.0	71.7
Single	38.1	30.5	21.7	19.5
Divorced or separated	12.5	10.5	5.8	6.8
Widowed	1.8	1.4	1.4	2.1

As indicated above, disabled people live more often in non-traditional family relations and they live alone more often than the “normal” population. Their marital status has serious financial consequences when they become unemployed since there is no helping hand nearby who can ease the economic difficulties caused by the decline of income due to unemployment.

Even when we compare the two disabled groups we can see that those who are unemployed live alone much more frequently than the economically active disabled people.

If we take into account that living alone is the economically, socially and psychologically most disadvantageous situation for the unemployed and the employed, we can summarise our findings by stating unemployed disabled have the worst position of all the persons in the labour market.

Still, we can point out that the fact that somebody has a disability does not automatically mean that the person is in a more disadvantageous position in the labour market than those who have no disability whatsoever. Some of disabled people are in a better position than some of the non-disabled. Socio-economic and the medical-pedagogical factors influence one’s fate in a complex combined way.

Educational qualification is one of the important determinants for quality of life and at the same time is a factor that has a strong influence on the employment opportunities of the individual.

LEVEL OF EDUCATION OF THE UNEMPLOYED AND THE EMPLOYED (%)

Educational level	UNEMPLOYED		EMPLOYED	
	Disabled	Not disabled	Disabled	Not disabled
Max. primary school	30.8	30.8	27.5	19.1
Secondary vocational	40.9	39.2	40.5	49.0
Secondary grammar	18.3	12.3	14.5	16.4
Higher education	10.0	7.7	17.4	15.5

Disabled people are over represented in the less and the most educated groups among the economically active; they are either less or more educated than other employees. The fact is that the highly educated among disabled people, in most cases, are not disabled by birth but became disabled during their adult life (as a consequence of accident or age). The born disabled are, as a rule, less educated than the normal population. Very few of the born disabled have higher education degree. Most of them reach only the secondary school level as a maximum.

Low educational achievement itself is an important reason why disabled people are over represented among the unemployed. It goes together with low income and job insecurity as well.

As a conclusion, we can point out that disability has its influential disadvantageous role as far as employment opportunities are concerned but in many cases its influence is indirect (working through factors like marital status, schooling etc.) and the situation of disabled people can be understood only as a result of a complex set of socio-demographic determinants.

Previous employment and job loss

Most of the unemployed people in our sample lost their jobs because of company bankruptcy and through lay off or could not find any employment after school. The majority of the unemployed who were interviewed were in most aspects satisfied with their previous jobs.

SATISFIED WITH THE PREVIOUS...

	Disabled	Not disabled
salary/wage	27.3	27.1
position	62.0	65.3
work he/she did	64.1	68.0
work schedule	64.8	62.0
atmosphere	65.5	66.4
colleagues	73.8	74.7
bosses	49.0	56.3

The only aspect in which they seem to have been unsatisfied is the previous salary. Disabled people differ from the others in their satisfaction only that they were less satisfied with their bosses than the other unemployed. In most respects the majority of the unemployed were satisfied with the previous job and people in the sample became unemployed against their own will.

While only less than 3% of the “normal” unemployed did not want to get employment in the future, the ratio of those staying out of the labour market voluntarily was almost 6% among disabled people unemployed. This fact raises an important question.

The consequences of separation in school

Disabled people are often accused of not making enough efforts to find employment and of preferring to live on welfare (what they are entitled for even if they do not have or have never had an employment). It is true that many of disabled people really prefer to stay on welfare or living on family help instead of searching for some job, but the explanation for that is not that they would be more idle than the “normal” population but simply that – at least in Hungary – they are not socialised for living and working in the “normal” society.

In the Hungarian educational system there are still separate schools for most of disabled people and only the mildly mentally retarded have some chance for some integration into the “normal” society during their studies.² More importantly, disabled kids in many cases (the deaf, the blind and the children with physical disability) are also separated from their families because the schools for these disabled are centralised. Most of the children stay in boarding schools where they seldom meet anybody else except their teachers and pupils of the same disability category.

² In Hungary in the early 2000s 4,1% of the primary school population was considered as disabled pupils and 3,7% stayed in separate educational institutions (Meijer 2003).

This separation is in fact isolation and sometimes segregation. It has a negative impact on the quality of life of disabled people in general and also has a negative impact on the employment opportunities and employment strategies of the individual disabled.³ Paradoxically often it is disabled person himself preferring non-employment and losing with it all the positive impacts that employment could mean for their quality of life. They simply feel more familiar with the segregated and isolated life of the disabled community where they are socialised to belong and prefer this to the more or less unknown territory of normal social life. They feel better living on welfare rather than risking failure and humiliation at a workplace.

The separate school system results in negative prejudices against disabled people. The fact that people know very little about disabled people causes fear that disabled people can be dangerous to themselves or to their work-mates at the workplace. Some employers do not employ anybody with a disability, some others – on the other hand – who have always had disabled people among their labour force hesitate to fire anybody who has a disability. The employed disabled are many times kept in the job not only because the employers are satisfied with their work performance but because they are also aware of the fact that unemployed disabled persons have a slim chance to find a new job and get re-employed.

Coping with unemployment

When we investigate how unemployed people try to adjust to the changed situation of their lives we must take into consideration the fact that for a long time during the post-war period people in the ex-communist countries had no experience being unemployed.

This means, on the one hand, that adjusting to being unemployed is not considered a routine activity. The unemployed do not know what social assistance they are eligible for, how to search for a job, how to spend their time without a regular formal occupation that used to serve as a framework of their time spending, or how to replace the formal workplace as a source of social contacts and information with some alternative forum of social life. On the other hand, unemployed people also have great difficulties building up a new identity and avoiding loss of self-esteem, especially when relatives, neighbours and the wider public attitude is un-supportive and at least suspicious of them.

One could assume that this is less true in the case of disabled people. Similar to women, they also have an alternative status in which they can accommodate themselves when they lose their jobs. The status of disabled living on welfare offers them an escape from the humiliating social label of being unemployed. In spite of all this, unemployed disabled people suffer from being without a job. They, in fact, suffer more from unemployment than the normal unemployed because employment gives them a bigger relative satisfaction than the non-disabled.

THE PERCENTAGE OF THOSE AGREEING WITH THE STATEMENTS BELOW (%)⁴

	UNEMPLOYED		EMPLOYED	
	D	ND	D	ND
I meet a broad range of people in my everyday life	40.4	39.4	64.4	62.2
Things I have to do keep me busy most of the day	52.4	57.4	95.5	85.1
Much of the day I have to do things at regular times	57.8	63.2	92.4	86.0
I make a positive contribution to society at large	23.3	28.4	75.8	72.0
Society, in general respects people like me	24.8	25.3	47.0	46.7

D: disabled ND: not disabled

³ According to the 'European Community Household Panel' data "one of the consequences of these barriers is that only 25% of people with a severe disability and 47% of people with a non-severe disability are in employment or self-employment, compared to 66% of the general population." (European Community Household Panel (ECHP) data. 1996, 6) The percentage of disabled persons employed full time has declined from about 17% in 1990 to 9% by 2001 in Hungary (Fazekas et al [eds.] 2004).

⁴ The questions used in this table are from the study of Heywood F. - Miles, I.: The experience of Unemployment and the Sexual Division of Labour. (in: Fryer, D. - Ullah, P. (eds.), 1987).

Unemployed people, in general, seem to have a less organised and less systematic, more greyish and meaningless life in their eyes than the employed.

One of the possible advantages of being unemployed is that people can decide relatively freely how to spend their time. We found that many of the unemployed used a great proportion of their time for doing different types of work outside the formal employment sphere of the economy. What is amazing is that those who reported some kind of disability do as much work during unemployment as those who are not disabled.

The main field of economic activity is the household but occasionally people perform work in the market economy too. 56% of disabled people and 59% of the normal unemployed do relatively more housework during the period of unemployment than they used to do before losing their jobs. People also try to substitute work performed as employed with work done in the non-formalised sectors of the economy.

The non-formalised and non-institutionalised (second economy) work takes people to a `second society` which lies on the margins of social life. The long-term unemployed, disabled or not, have to adjust themselves to the rules of that second society. The more disabled people are likely to face unemployment the more they are pushed outside mainstream social life, strengthening the marginalisation tendencies associated with the disability itself.

Theoretical questions

Involvement and coping

The “more employed” somebody is the more he/she can be effected by unemployment. Employment and unemployment are expressions for the form of work that exists only under market economy circumstances when work is performed in the form of paid employment.

The famous and often quoted comment by Marie Jahoda states “in some respects every unemployed is like every other unemployed (i.e. without a job); in some respects every unemployed is like some other unemployed (e. g. with similar previous jobs); and in some respects every unemployed is like no other unemployed (i.e. unique individual.)” (Jahoda 1982, 48). But even if it is statistically true it makes sense from a social-psychological point of view only if we put it the other way round: the more similar two unemployed were in their employment characteristics the more similar they will be in the way they cope with unemployment when they become unemployed.

The deep, many sided and exclusive involvement in employment causes difficult and almost always unsuccessful coping with unemployment when somebody becomes unemployed. This is simply because the more one loses the more difficult it is to cope with the loss. What kind of economic or social situation one experiences as a consequence of unemployment is less important than the real determinant of coping: how big is the relative change when one loses the job.

That is why

- long term employment
- if it is the only source of income and social status

makes one a perfect labourer in the market economy and a perfect victim of unemployment. Unemployment puts all the routines and the whole social status of the ideal employee at risk.

The life long heavy metal industry worker represents an individual whose personal characteristics (his whole personality) are deeply rooted in the world of employment. This is the result of the long-term socialisation that has taken place during the decades of employment.

The school graduate, the house wife or the self employed might be in need of employment and might have serious economic, psychological, and social problems because of not being able to obtain it. But their problems are not the problems of losing and missing all the benefits, the psychological, social and economic “vitamins” (as Warr calls them) of meaningful employment.

The same is true for disabled people: those who change from disabled employee to unemployed disabled suffer the most because of the shift from the status of employee to the status of disabled.

- Those who have been employed for a long time before losing their job suffered most from the lack of previous experience attached to the employment.

- Those who were more satisfied with their previous employment tend to feel that they lost something by getting unemployed.
- Those who have not had any alternative meaningful activity or an alternative source of experience that could serve as a substitute for previous employment suffer the most from its loss.

The only serious difference we found when we compared how normal and disabled people cope with unemployment was that socially and psychologically employment meant even more for disabled people than to the healthy (though financially the healthy were more in need of employment). This is because employment for disabled people served as a proof of being equally capable and socially valuable to the non-disabled. Employment served as a proof for disabled people of something that the non-disabled never felt the need of proving.

During unemployment disability becomes a handicap in an explicit way, even more obviously than during job-search.

The same is true for all employees for whom employment means more than only the source of income. The bigger importance they attribute to employment and the less they are able to substitute it with something similarly meaningful the more they suffer from the lack of it.

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GENERAL EVIDENCE, INCOMES,
PENSIONS AND
BENEFITS OF PERSONS
WITH DISABILITIES IN HUNGARY



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SOCIAL INCLUSION PLANS (GENERAL)

1.1. How and where people with disabilities are included in Hungary's published plans for social inclusion and protection?

How and where are persons with disabilities included in Hungary's published plans for social inclusion and protection?

Three programs are worth mentioning:

The National Disability Program (NDP)

defines inclusion policy clearly. The pertinent provision of law – 10/2006 (February 16) Parliamentary Decree – focuses on inclusion, normalization, equal opportunity access and the general situation of the family of the person with disability. An independent program but with a mainstream approach – it was passed by the Hungarian Parliament.

Social Inclusion Program (Ministry of Social Affairs and Labour)

see National Strategy Report on Social Protection and Social Inclusion 2006–2008

The program refers to the various areas of social inclusion. It refers to disability and the situation of persons with disabilities at least 53 times. The program itself is inclusive and mainstreamed.

The New Hungary Development Plan (NHDP)

In the two major areas of inclusion:

- 1 Education – the key provisions of the law designed by the above mentioned program are primarily inclusive,
- 2 Employment – unfortunately favours segregated employment as the higher the rate of persons with disabilities within the number of employed the more subsidies the employer is entitled to. Thus while NDP and NHDP prefer integrated employment in the intention and wording of these programs, the result is the opposite. In the following website altogether eight English language documents are available for the clarification of this issue <http://www.szmm.gov.hu/main.php?folderID=1375&articleID=30804&ctag=articlelist&iid=1>

1.2. In reality, what major actions has Hungary taken and what are the positive or negative effects on people with disabilities?

People with disabilities have rights equal to all other Hungarian citizens, but in some cases, due to anti-discrimination laws, additional entitlements are available for person with disabilities. (See later the detailed example of the disability benefit, which is 80 percent of the minimum old age pension.)

Services: in order to achieve equal access to services, HUF 35 billion is spent from the National Development Plan on the so called physical and information-communication accessibility.

A regional analysis of equal access to services shows a strong inequality favouring the Western parts of Hungary, i.e. social services in the Western provinces are more developed. If we distinguish between cities and rural areas in terms of educational facilities, cities score substantially better. Therefore a large portion of children with disabilities require dormitory placement if they want to get a good education.

These statements can be double checked based on the empirical information found on the Hungarian language website (protected by a password) of the Information System of the Social Sector: https://teir.vati.hu/szoc_agazat. The website summarizing the Information System of National Regional Development and Management is the following: <https://teir.vati.hu/>

Information on fighting discrimination and increasing integration:

Fundamental provisions of law in this area are the following:

- i) The Constitution of the Republic of Hungary prohibits discrimination in general.
- ii) The antidiscrimination rule in the case of persons with disabilities was embedded into Act. No. XXVI¹, however, it is not explicit. See: <http://text.disabilityknowledge.org/The-Law.htm>
- iii) Since 2003 the Act CXXV on Equal Treatment and the Promotion of Equal Opportunities provides the right basis for the prohibition of discrimination as understood in a broad sense. See.: <http://www.egyenlobanasmod.hu/data/SZMM094B.pdf>,
or: <http://text.disabilityknowledge.org/Equ-Opp-Hu.pdf>
English language website: <http://www.egyenlobanasmod.hu/index.php?g=english.htm>

Critical analysis:

The provisions of law are there in Hungary today, but the problem lies not in the enactments of law but rather in the fact that the enactments of law are not being implemented.

This lack of effective implementation of the law has not threatened directly the rights of persons with disabilities so far. But in some self-government jurisdictions violent actions and anti-Roma pogroms of the so-called Hungarian Guard undermine the basis of everyday democratic functioning. The courts have been hesitant and passive in such situations.

How are people with disabilities and their organisations being involved in co-ordination of these policies? The National Disability Council (NDC) is an advisory agency of the government and it reviews the policies enlisted in point 1.1 and other policies pertaining to persons with disabilities.

The NHPD is broken up into operative programs and all of these have monitoring committees as well as representatives of persons with disabilities.

Negative impact: although forums exist to include persons with disabilities, the true enforcement of interests does not occur at a high enough level. Life situations from the very basic to the most complicated are being regulated by the bureaucracy, but the bureaucracy simply does not have the appropriate knowledge to regulate effectively. In these situations extra involvement of persons with disabilities would be called for according to the Western model. This however does not occur in Hungary either at the case by case level or at the policy level. The next step of development will be when persons with disabilities will be effectively integrated.

In the following we will enlist a few examples, both positive and negative:

Negative example: Regulation concerning group homes was prepared without involving the persons most affected.

Positive example: People with disabilities were involved in preparing regulations for supportive services. This was true inclusion, noble and co-operative work. In the case of the national autism strategy, the representatives of the people concerned handled the task.

¹ Chapter VIII: Protection of the rights to which persons living with disability are entitled, re-sponsibility for the tasks arising from the act at Section 27 states any person suffering an unlawful disadvantage because of his or her disability shall be entitled to all the rights which apply in the case of violation of individual rights. (This is the non-discrimination section that refers to section 76 of the Civil Code which prohibits any kind of negative discrimination on the grounds of sex, race, nationality or religion but does not define or address disability. Section 84 of the Civil Code states that in the case of violation of any individual rights, the aggrieved party may bring the question before the court in order to let the court decide whether an infringement has occurred.)

² "Negative discrimination. Article 84 All dispositions as a result of which a person or a group is treated or would be treated less favourably than another person or group in a comparable situation because of his/her
a) sex, b) racial origin, c) colour, d) nationality, e) origin of national or ethnic minority, f) mother tongue, g) disability, h) state of health, i) religious or ideological conviction, j) political or other opinion, k) family status, l) motherhood (pregnancy) or fatherhood, m) sexual orientation, n) sexual identity, o) age, p) social origin, q) financial status, r) part-time nature or definite term of the employment relationship or other relationship aimed at work, s) membership in an organisation representing employees' interests, t) any other status, characteristic feature or attribute (hereinafter collectively: characteristics) – are considered direct discrimination.

Here there was a fundamental deficiency as public administration did not participate in its development therefore the bureaucrats did not form a commitment that normally forms from participation. This is the problem with the NDP as well. The plan was made together with citizens but government experts and bureaucrats were left out. During implementation this became a serious limiting factor.

A positive practical, anti-discrimination example is the “Don’t Let Yourself (be discriminated against)” program by the Hand in Hand Foundation aimed at the development of a national discrimination indicator system (Hungarian website only): <http://www.kezenfogva.hu/nehagydmagad/>

1.3. The key findings of most recent research about people with disabilities’ equality and social inclusion in Hungary of the past two years

Krémer, Balázs – Nagy, Zita (2007): “The behavioural forms of good policies and governance in the area of disability are always suitably flexible to find the optimum between the possibilities and the satisfaction of needs and requirements... fostering flexible professionalism, openness and a social dialogue are very important.” p. 43

Könczei (et. al.) 2007: “Persons with psycho-social disabilities are typically able to act (they are able both to act and to exercise their rights) and as such they are not necessarily in need of substitute decision-making. Subsequently should appropriate “staking” be provided (Leopold Szondi’s expression) persons with such disabilities could be successful and at least quasi-autonomous and creative participants in a supported decision making process”, p. 10.

We, unfortunately, do not have evidence about inequalities between different groups of people with disabilities (disabled women, young people, older people, people with different kinds of impairment, migrants or ethnic minorities, etc.)

New research is needed on equality and social inclusion. It would be important to conduct a thorough survey of the housing solutions for group homes, institutions, apartments, and rental housing because disabled persons too often are found on the wait lists of social institutions.

INCOMES, PENSIONS AND BENEFITS

2.1. Research publications (key points)

Our data concerning poverty, income or pensions/benefits for people with disabilities in Hungary is based on the Census of the year 2001.

The data on persons on disability pensions can be drawn from the data tables collected by the Pension Fund Directorate (by age groups and the amount of their disability pensions.)

Key findings of the most important publications:

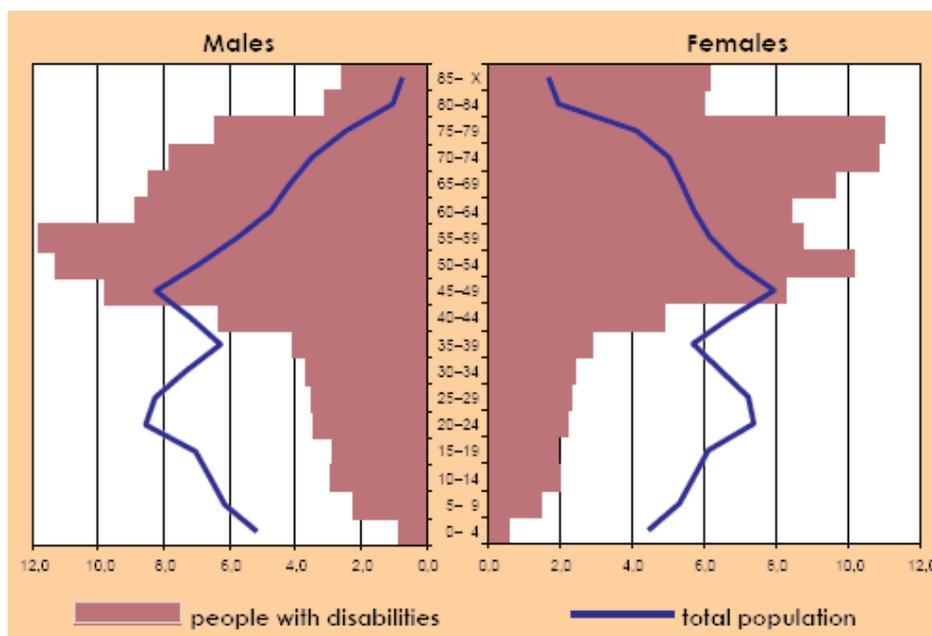
Economic Research 2007: "The transformation of the system of disability pensions started in 2008 allows for testing whether personal rehabilitation plans are drawn up that provide a realistic possibility for the person with altered abilities to work during the maximum three year term of paying someone the rehabilitation benefit. In cases where this is not possible it will be necessary to investigate again how realistic these measures are. In the near future, the social service sector will be examined regarding whether it offers encouragement or counter-encouragement for employment. It would be expedient to take into consideration the results of this research for developing policy ideas for the future." p. 9.

Halmos, et. al. 2008: "In our opinion the reform of the procedural order for applying for wage subsidies can be implemented to retain the defence function against fraud yet also expanded to encourage employment as much as possible"; p.34

New research is needed. While at least one third of persons with disabilities are passed retirement age, we have no knowledge of their situation at all.

The age tree proves that the ratio of people with disabilities in different age groups is varied. They are represented as the largest ratio in the retired age group.

FIGURE 1:
RATIO OF PERSONS WITH DISABILITIES IN THE HUNGARIAN POPULATION
(CENSUS OF THE YEAR 2001)



2.2. Type and level of benefits

Only since 2007 has the assessment of capacity to work been done by an interdisciplinary team instead of a group of medical doctors.

Disability pension:

The criterion for entitlement is the so called 51 percent of total disability. The number of the so called disabled pensioners under the limit age (and they are the only ones that count in terms of employment policy) was 451 953 in January 2007. (Source: Report of the State Audit Office of Hungary on the profitability of funds used for maintaining ability to work – unpublished).

In January 2007 the average disability pension was HUF 55 110.³

Those who have reached the retirement age – in the case of women, 62, and in the case of men, 65 – carry over their disability pension. They do not change to old age pension. Criterion: persons not entitled to disability pension are supported by other benefits. The amount of these benefits is determined by the years spent at work and the level of disability.

The following are not entitled to collect rehabilitation benefits:

- a) Those who collect a disability pension, an accident pension, an old age or inability to work benefit, unemployment insurance benefits, maternity benefit, maternity aid, childcare benefit, etc.
- b) Those entitled to old age pension
- c) Those who cannot be rehabilitated

Those who are lacking service time can collect disability benefits and regular social security benefits

Financial support of the various health-, social-, employment policy etc. sectors have inter- and intra-sector differences primarily based on the extent of the funds available. The exact number of persons serviced by these is determined by the amount of funds available. (The definition of disability was narrowed, for example, to the point where the funding was just available for the disability benefit.)

There are dozens of benefits available. From the employment point of view one either collects disability pension or one of the following five benefits.

- i) In 2007 19 158 people were collecting temporary benefits. The criteria for eligibility, in short, are as follows:
 - a minimum of 40 percent disability sustained at work carrying out employment activities, unsuitability for rehabilitation in the present line of work, in the line of work prior to the disability, or in another line of work appropriate to the person's training, and
 - eligibility for collecting old age pension within five years, and
 - insufficient service time for collecting old age pension, and
 - ineligibility for private pension, and
 - not collecting regular benefits, wage supplement, temporary wage supplement, regular social benefit, health impairment benefit for miners, and
 - unemployed or earning an average monthly income or wages less than 80 percent of the mandatory minimum wage in the four months prior to applying for the temporary benefit.
- ii) In 2007 184 845 people were collecting regular social benefits. The eligibility criteria, in short, are the same as above except the person must have half of the service time necessary for collecting a disability pension as determined by age group. The regular social benefit of persons older than the age limit is between HUF 26 960 and 31 020. It is HUF 26 710 for those under the age limit.
- iii) In 2007 2 693 people were collecting health impairment benefits. This amount is equal to those receiving wage supplement, which is determined based on the previous income provided it does not exceed an amount three times the actual smallest old age pension (HUF 85 500).
- iv) In 2007 30 039 people were collecting disability benefits. The amount of this benefit has gone up from HUF 26 400 to HUF 29 700 between 2004 and 2006.
- v) In 2007 13 899 people were collecting accident benefits.

³ 1 € is equal to HUF 250 (approximately).

During the three year period between 2004 and 2006, HUF 2000 billion was paid out for these five benefits.

<http://www.szmm.gov.hu/download.php?ctag=download&docID=15205>

<http://www.szmm.gov.hu/main.php?folderID=848>

<http://www.szmm.gov.hu/main.php?folderID=1375&articleID=30804&ctag=articlelist&iid=1>

<http://www.szmm.gov.hu/main.php?folderID=1375>

http://ec.europa.eu/employment_social/spsi/strategy_reports_en.htm

On 31 December 2007 106 620 people were collecting disability benefits, which is the financial support for persons with severe disabilities. Half of these people are over 65. The yearly budget for this benefit is HUF 24.2 billion (statistical data service of the Family Support Department of MÁK: Hungarian State Treasury – for internal use only, unpublished, 2008.)

2.3. Policy and practice (summary)

Please tell us about the current state of laws or policies that affect the poverty and the financial income of people with disabilities in your country.

- Is the financial income of people with disabilities an important political question at this time? Yes, it is. But due to the convergence program serving to lead up to the introduction of the Euro, the programs do not get implemented. Example: one of the reasons for the reform of the employment system of people with altered capacity to work was that these people did not receive the maximum 135-360 percent of the minimum wage they are entitled to. The ombudsman demonstrated in one of his audits that people who are not able to act have employment contracts but the money that is owed to them is channelled to the social institution providing care. This situation triggered reform which goes to show that it is important for politicians that people with disabilities get what they are entitled to.
- Have there been any important changes or modernizations of policy in your country? Yes, one example is the disability benefit as described earlier. Beyond this, in Hungary services for persons with disabilities are provided by either the self-government jurisdictions or by the decentralized state agencies. Due to the animosity towards social services delivered by the self-governments and for reasons of honouring equal opportunity, the state purchases services directly through tenders (for example, the reform of supportive services.)
- To what extent are people with disabilities included in mainstream policy for poverty and income protection, or treated as a separate group? Fighting poverty through the law is implemented by the Social Act and the Act on Family Support. These laws do not attach many financial benefits to disability (for example the family allowance is a universal right but is tied to the family income by way of means testing). Disability allowances exist for persons with disabilities. And children fitting in the traditional disability categories are eligible for supplemented family allowance.
- Do pensions and benefits in your country encourage younger people with disabilities to work in paid employment? The answer is no. Just the opposite. Even though the level of the various pensions and benefits is low, they still provide some form of secure livelihood. And, since it is difficult to get a job and to keep it, this makes persons less interested in employment. (The sad impact of this situation is that in some selfgovernment jurisdictions Roma persons were required to perform public work in order to get financial assistance they were entitled to.)
- Do pensions and benefits in your country encourage older people with disabilities to stay in paid employment? The answer is no. It is possible to work while collecting a disability pension. However this work must not be regular and it cannot exceed six hours a day. The income from this work cannot significantly exceed the income of the person prior to becoming disabled, or else the person loses their disability pension. (Example: According to a report put out by Brunel University, in most EU member states disability pensions are tied to income, but in Hungary disability pensions are tied to health impairment).
- Are there sustainable incomes for people with disabilities who cannot work?
- Could the financial system cope with increases in the number of people with disabilities or the level of pensions? No. More and more people retire and less and less people are working to support them. In 2006 the number of the employed was as low as 3.9 million.

CARE AND SUPPORT

3.1. Recent research publications (key points)

Please tell us about recent research on long term care and independent living in your country (e.g. including access for different groups of people with disabilities, disabled women, older people, migrants etc.)

- What are the most important publications in the past two years?
- What are the key findings and recommendations?

“More than a third of the 35 residential social institution buildings (mansions) surveyed were partially renovated in the past 10-15 years. However, the majority of these renovations were only for safety (to prevent accidents) and for reasons related to hygiene. Mansions, by their nature, are not suited to provide “mass” social care. Due to not adhering to the law in so many areas a large majority of these mansions only have temporary operating permits.

Contrary to the steadily increasing professional expectations set out in the law the norms have continuously dropped, nominally as well, while the incomes of the majority of the service providers have shrunk (i.e. revenues from levies). Tender sources have become increasingly more difficult to get in the past two years. The self generated income of these institutions is next to nothing. The increased energy prices and the increasing pharmaceutical prices (and the box fee and the visit fee) are hitting the social institutions harder than the average business.

The institutions cannot make further cutbacks in the real expenses to compensate for the on average 10 percent decrease in financial support; therefore they are forced to further erode the already sub-standard proportion of skilled staff which in turn requires raising the fees for service. (This means that in many cases those receiving care have no money left for clothing which in turn puts the pressure on the institution to provide it.)

There are significant inter-regional differences... The rehabilitation of those in care is largely made more difficult by the present practice of exclusive guardianship.” Economic Research 2007B, p.5.

3.2. Types of care and support (key points and examples)

- Care provided in institutions vs. care provided at home. Act XXVI of 1998 designates the end of 2001 as the deadline for breaking up large institutions into live-in homes. The budget for the Social Infrastructure-development Operative Program (TIOP) for 2007-2013 is HUF 11 billion and breaking up large institutions into live-in homes can be partially implemented from that amount. There are 128 care facilities out of which 81 can house more than 50 people and 5 of them can house more than 200 people. For half a decade the care fee has been an issue. Today the care fee functions as a social subsidy. The fight around this fee relates to providing home care for persons with disabilities and whether the state should accept home care as employment. Finally, in TÁMOP there is a model program operational until 2010 before the introduction of amendments of the law.
- Personal assistance schemes. Supportive services are available for personal assistance at the moment. During the last amendment to Act XXVI of 1998 a section was added which defined accessibility as both physical accessibility to buildings in addition to the personal assistance to persons with mobility problems and accessibility to personal assistance for people with serious communication impediments.
- Availability of temporary care services (e.g. ‘respite care’). This area is regulated by the Social Act. There are institutions providing day care, temporary and live-in care.
- Help with housing (e.g. accessible housing, supported housing, adaptations). The different types include institutions providing permanent live-in care or live-in homes.
- Work rehabilitation services. The Social Act distinguishes between work rehabilitation employment whose objective is to keep the skills of persons with disabilities at a certain level and the preparation-development employment. The latter is based on the Labour Code and prepares persons for employment on the open labour market.

- Help with transport. Support services provided by a support agency and governed by the Social Act include assistance in the person's own home and in providing transportation for persons to get their business done outside their home.

Assistance to purchase and to retrofit own vehicle; transportation assistance exists too. The maximum amount of the latter per year is HUF 17000, further-more there is a tax deduction from the vehicle tax, and parking ID is provided.

Mass transportation. Those in the classical categories of persons with disabilities – persons with visual impairments, persons with intellectual disabilities, persons with mobility impairments and persons living with autism – are eligible to use public transit together with their companions at a 90 percent discount rate. When mass transportation vehicles are purchased and the stops and railway stations are built accessibility for persons with disabilities is an important requirement.

Transport services are provided both by support services, by school buses, and by village and farm trustee networks. In small and sack settlements (with no through roads) and in the case of bush settlements, village and farm trustee networks own vans or other vehicles and can drive those in need of doing their business elsewhere. This is part of mainstreaming.

Health insurance finances access to public education services (i.e. early development) and access to health care.

Does the current system of care and support limit the choices of people with disabilities as to where they live? Certainly. In poorer and smaller settlements the standard of care is significantly lower.

Can people with disabilities choose to manage their own finances for care and support? Personal assistance budgets and direct payment schemes are non-existent as of yet.

The quality of care and support is largely dependent on the financial resources available for the disabled person and their family.

SUMMARY INFORMATION

4.1. Conclusions and recommendations (summary)

Please summarise the most important points from your report in one paragraph

- Current policies do not ensure social inclusion and social protection to people with disabilities yet. Good will is not enough any more.
- Situation for people with disabilities partly improving, partly getting worse in Hungary? Improvements come from modern and positive steps and regulations. The cause of getting worse is budget cuts.

A recommendation for positive change in the social inclusion of people with disabilities in Hungary could be a new system of much more integrated labour conditions.

- Is action required for priority groups of people with disabilities? (e.g. disabled women, migrants, older workers, people with specific kinds of impairment/disability). The question can hardly be answered because of lack of information.
- Much more research is needed in order to gather information on specific groups, e.g., disabled women, migrants, older workers, people with specific kinds of impairment/disability.

4.2. One example of best practice (brief details)

Please tell us about one example of good practice in the practical implementation of social inclusion or social protection of people with disabilities from your country (e.g. a policy, programme, pilot study, project, or case study). Is there something that other countries might learn from?

Good practices are e.g., the making of National Disability Program, the solidarity on the level of FESZT (Council of Organizations of persons with Disabilities), the humility of Hungarian Disability Studies for the benefits of people with disabilities and the supported employment programs.

4.3. References

Please include a list of references for the publications or sources of evidence mentioned in your report (we will include this list of sources on our web pages to help others learn more about the situation in your country).

Economic Research 2007A. Employment of Persons with Altered Working Capacities. Description and proposals. Gazdaságkutató Zrt., Unpublished research progress report (in Hungarian). Budapest

Economic Research 2007B. Redemption of Castle-Institutions with Group Homes. Economic calculations. Gazdaságkutató Zrt., Unpublished research progress report (in Hungarian). Budapest

Könczei, György – Klara Marton – Istvan Hoffman – Gabor Gombos – Lajos Farkas – Roland Keszi – Endre Bíró – Tímea Egri – Kinga Marton 2008. Capacity to Act, Legal Capacity of Persons with Intellectual Disabilities and with Psychosocial Disabilities and Guidelines. Unpublished multidisciplinary research progress report (in Hungarian). ELTE BGFSE. Budapest

Krémer, Balázs – Nagy Zita 2007. Digestion of Working Plans of People Living with Disabilities and Altered Working Capacities. Unpublished research progress report (in Hungarian). Revita Foundation, Debrecen

Halmos, Szilvia – Aubel Ervin – Csányi Zsuzsanna – Végh Katalin 2008. Motivating Employment of Persons with Disabilities. Proposal for a legal change. Salva Vita Foundation, Budapest. Unpublished research progress report (in Hungarian)

A HISTORIC PAPER:
HUNGARIAN SYSTEM
OF VOCATIONAL REHABILITATION
AND SUPPORTED EMPLOYMENT
IN A NUTSHELL (2001)



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Hungarian System of Vocational Rehabilitation and Supported Employment in a Nutshell (2001)

The system described below is not in effect any more. It was subject to a basic reform after Hungary has become a member state of the European Union.

1. Legislative background, disability policy, institutional context

The Hungarian Constitution ensures equality, right to work and social security for each citizen as fundamental human rights principles. During the past fifteen years several legal instruments have been adopted that guarantee the rights and equal opportunities of people with disabilities with special reference to partly compensating for the unfavorable effects on the labor market of the transition from a centrally planned to a market economy. Until about one and a half decades ago vocational rehabilitation had hardly any institutional traditions because during the period of full employment – when demand for labor exceeded supply and wages were centrally controlled – the problems people with disabilities encountered in employment remained hidden.

The first attempt to encourage enterprises to take on workers with disabilities appeared in the legislation of 1967 when a general labor market shortage characterized the economy. The law imposed different obligations on industrial enterprises but the level of state subsidy was not high enough to encourage them to opt for a new employment policy with regard to workers with disabilities. The control over fulfillment of obligations was not effective enough resulting in the alteration of system in 1983.

The decree issued jointly by the Ministry of Health and Ministry of Finance that year on the employment and social benefits of persons with reduced working abilities brought thorough modification in the earlier provisions concerning the employment of individuals with disabilities under the jurisdiction of the decree. Although it has been amended since then several times, it is still the basis of legislation on people with disabilities. The decree addresses the following issues: the duties of employers and rehabilitation committees related to the vocational rehabilitation of persons with reduced working abilities, income supplement and other benefits granted for the persons concerned. The decree defines the objective of the vocational rehabilitation of persons with reduced working abilities as follows: to ensure the opportunity for remunerative working activity for the persons concerned following medical rehabilitation, work that suits the person's state of health and vocational qualifications.

The amendment decree of 1986 introduced the compulsory employment of people with disabilities by which the problem of how to control the complying with legal obligations of enterprises was solved and fines as sanction applied.

The transition from a centrally planned economy to market economy exerted an unfavorable impact on the structure of employment. Unemployment rose steeply, and the cost of the passive benefits granted for people with disabilities grew. It became urgent to create a more effective and transparent

legal background. A new Employment Act came into effect in 1991. In accordance with the government's employment policy, it encouraged the generation of new jobs, the prevention of unemployment and the lessening of its unfavorable consequences. Among other things, it included provisions on assisting the employment of people with disabilities and on the operation of the labor market organization that is of great importance in implementing the law. Even though that law was a major step forward in terms of the integration of people with disabilities and improving their employment conditions, several years had to pass before a law was adopted that declared their equal opportunities in the various other fields of life such as health care, education, training, place of living, culture and sport.

During the past decade, as part of disability policy and mainstream employment policy, increasing emphasis has been laid on the reform of social security and social benefit system of people with disabilities. The Act on the rights and equal opportunities of individuals with disabilities was adopted in 1998. It covers the complex rehabilitation to be ensured for people with disabilities and, as a result of rehabilitation, it seeks to enable people with disabilities to enjoy equal opportunities, independent lives and active participation in social life. It is an important accomplishment of the law that it bans discrimination against people with disabilities and defines sanctions for those who violate that rule. Acting in accordance with that law, the Hungarian National Assembly adopted a National Program for Disable Persons. The Program is to be taken into consideration, among other activities, when the central plans are worked out for employment and training.

1.1. Institutions involved in policy-making and implementation

In the 1980s the organization of the institutions of rehabilitation as well as the tasks and jurisdictions were repeatedly altered. That, coupled with indifference on behalf of the players in the field, brought about the system's low efficiency on the border of paralysis. In the beginning of the 1990s legislation that sought to improve conditions for people with disabilities gathered momentum. Several legal instruments of higher and lower level were adopted in order to reshape the system in accordance with the needs and possibilities. In harmony with the Employment Act of 1991, the organizational conditions for the vocational rehabilitation of people with disabilities has been ensured by the central and local organs of the labor market organization – which was set up to implement the mainstream employment policy objectives. These include rules that define the authority and work conditions of local and regional committees of rehabilitation that are responsible for rehabilitative employment and training. Professionally, the work of those organs is supervised by the Ministry of Social and Family Affairs. Rehabilitation task forces have been set up within the county and local employment offices.

They are charged with promoting the rehabilitative employment of persons with reduced working abilities and managing related administrative functions. In order to manage the complex affairs of individuals with disabilities effectively, they have to co-operate ever more intensively with the municipalities, various specialized agencies, the organs of the social security and employers. The above-mentioned legal instruments oblige the organizations concerned to co-operate. The role and weight of non-governmental organizations (NGOs) has grown in issues of disability policy and in practical implementation as they have received considerable financial assistance.

As from 1998, some of the tasks of the employment offices have been transferred to so-called public benefit companies. Such tasks are, for instance, offering guidance for those looking for rehabilitative employment and running programs and training course that help prepare for employment.

The 1998 Act also established the National Council for Individuals with disabilities. The Council assists the government in fulfilling its related functions and takes part in elaborating and implementing the National Program for People with disabilities. Both the national interest representation organizations of people with disabilities and non-profit organizations that assist people with disabilities have delegates on the Council.

1.2. Definition of disability

The definition of disability and that of persons with disability person can be found in several legal instruments. Depending on the character of the statute concerned, they vary in defining the circle of people who belong to their competence. Those definitions are, as a rule, consistent with the definitions that can be found in the social security regulations. Let us examine the decree of 1983 on the employment and social benefits of persons with reduced working abilities. A person might become qualified living with reduced working abilities if he or she is:

- a) because of reduced working capacity caused by the deterioration of his state of health, has become incapable of executing full performance in his original job without rehabilitative measures but does not receive old-age pension, disability pension, accident-related disability pension, old-age annuity or work disability benefit;
- b) receives accident-related annuity owing to work-related accident or occupational disease and has become lastingly unable to execute full performance in his original job;
- c) may not be employed by his original employer owing to his tuberculosis;
- d) has left the armed forces, armed corps or law-enforcement agencies because his reduced working abilities or state of ill health make him unsuitable for service.

According to the implementing order of the 1991 Act on promoting employment and the benefits of the unemployed, a person is defined as a persons with reduced working abilities who lives with physical or mental disability, or whose chances for obtaining or maintaining employment have decreased following medical rehabilitation because of his physical or mental impairment.

According to the 1998 Act on the rights and equal opportunities of people with disabilities, a person is disabled as far as vocational rehabilitation is concerned if he is considerably or fully devoid of his mental capacity or the capacity to see, hear or walk about or his communication is considerably limited and that causes him a lasting impediment in his active participation in social life.

2. Employment: legal obligations and rights of employers

An employer is obliged to strive for employing a laborer with reduced working abilities in his original position in his original trade. In case that is impossible, the employer is obliged to ensure within his sphere of activity a position for the employee where he can utilize his working capacities without the further deterioration of his state of health. To that end the employer has to modify working conditions, retrain the employee for doing another type of work, arrange vocational training, or by transferring the employee concerned to another workplace, one that corresponds to his age, qualifications and state of health. A person with reduced working abilities may also be employed in reduced working hours or in a separate section of the plant arranged for that purpose or, if the employee's work concerned makes that possible, he may take work home. The costs of related measures shall be borne by the employer.

2.1. Compulsory employment

In order to help people with disabilities find or retain employment, the 1998 amendment of the law on employment obliges a wide spectrum of employers to employ persons with reduced working abilities. Before 1998 the obligation only referred to certain categories of business organizations and the sheltered work establishments. The legislation currently in force obliges all employers (including non-profit organizations and budget-financed institutions) to employ persons with reduced working abilities provided their staff is in excess of twenty persons. The number of persons with reduced working abilities that has to be employed is 5% of the average statistical size of staff in the year concerned (as compared to 3% until 1998). For the purpose of establishing the size of staff, persons who do various categories of work for the benefit of the public with or without remuneration have to be left out. An employer who fails to observe his legal employment obligation must pay rehabilitation contribution. The annual sum of the rehabilitation contribution is the multiple of the difference between the number of people with disabilities employed and the prescribed number on the one hand and the rehabilitation contribution on the other.

2.2. Financial support

The rehabilitation contributions that are collected form the rehabilitation component of the Labor Market Fund which is a separated fund of the state budget. That is the primary source for assisting the employment of people with disabilities. By granting assistance for employers according to certain criteria – and thus involving the open labor market in this process – it becomes possible gradually to build a differentiated employment structure for people with disabilities.

The rehabilitation component of the Labor Market Fund may be used to assist an employer who employs a person with a 40% reduction in his working abilities or whose ability to enter into employment or retain his job are reduced owing to his physical or mental impairment. Assistance may be granted to capital projects, retrofitting projects and the expansion of tangible assets, all of which promote the employment of persons with reduced working abilities provided that such projects:

- generate a job for rehabilitative employment under normal operational conditions or they aim to modernize, upgrade, expand or keep at a certain level such an existing job, or
- aim to establish, upgrade, expand or keep at a certain level, a sheltered work establishment (as defined by a separate legal instrument), or
- ensure the purchase, upgrading or modernization of implements that facilitate the employment of persons with reduced working abilities.

Such support may be repayable, non-repayable or the two forms may be mixed.

Non-repayable support may be given to enhance employment security, that is the retaining of a job, for an employer who is suffering from a temporary liquidity problem and who employs a person whose reduction of working abilities reaches 40% and is employed in part time and who (the employer), without such support, would be forced to close down that job.

Support may be given from the employment component of the Labor Market Fund to promote placement for an employer who intends to employ a person with reduced working abilities who is a registered unemployed. Support may be the form either of wage supplement, support for work that serves the benefit of the public and/or paying in the employer's stead the social security contributions that are attached to that particular instance of employment.

Hungary's tax legislation makes it possible to grant a tax benefit for employers in order to promote the employment of people with disabilities. An employer who is not under the obligation of employing individuals with disabilities – because his staff is smaller than twenty – may reduce his tax base in a manner defined in the relevant tax law provided he employs a person with reduced working abilities.

3. Measures and supports for people with disabilities

3.1. Sheltered and supported employment

Sheltered work establishments (the so-called organizations created for a specific purpose and the social vocational workplaces) play a special role in the employment of persons with reduced working abilities. A business association may be designated to be an organization with rehabilitative employment provided a year has passed since it began rehabilitative employment, in the average of the six months prior to its application for such designation its average statistical staff reached at least thirty persons and persons with reduced working abilities reach at least 60% of the average statistical staff at that company. It is also a requirement that the applicant business association must ensure health provision that is adjusted to the state of health of the persons with reduced working abilities employed there.

Those legal requirements must be satisfied continuously during the operation of the business association concerned because support for the company concerned is based on the persons with reduced working abilities employed there. The size of the subsidy depends on the nature and degree of the disability of the persons employed. As a rule the sheltered work establishments are maintained by the local municipalities, and individuals with disabilities and persons with reduced working abilities are usually employed for work carried on at home or out of the home.

The sheltered work establishments are entitled to subsidies to help them employ people for the purpose of rehabilitation. The size of the subsidy is determined by legal instruments.

The role of alternative employment techniques has in recent years considerably grown in the field of rehabilitative employment, where the NGOs have realized fine results in utilizing the working abilities of persons with reduced working abilities and people with disabilities.

3.2. Vocational training

Taking into consideration the skills and state of health of the persons with reduced working abilities, training, or the insurance of vocational training, is the duty, in the first place, of the employer (at the time when the reduction of working abilities is established). The employer may apply for financial support to that activity. The persons with reduced working abilities and individuals with disabilities may attend, in addition to the training institutions that are available for the society at large, rehabilitative and general-purpose training program run by the employment offices. The services offered by the labor market organization are free of charge. The special institutions that are established in order to train or retrain people with disabilities offer their services by taking into consideration the conditions of the persons with disabilities. Such institutions have specially trained teaching staff who can carry out effective training. The NGOs play an important role also in this field. However, the number of applicants who seek training at such institutions by far exceeds the number of places available.

3.3. Protection against dismissal

In cases defined by law, the employment of a person with reduced working abilities may not be terminated by ordinary notice. The ban on notice does not refer to that person with reduced working abilities who is employed by a firm that employs fewer than twenty persons. Other such cases are as follows:

- such a person repeatedly fails to do his job properly or is incapable of doing his work, except when his unsatisfactory work performance or his inability derives from the reduction of his working abilities,
- an employer ensures a new workplace for his employee of reduced working abilities (one that suits his state of health, age and qualifications) within his sphere of activity or in an identical workshop at another employer – heeding the advice of the local committee of rehabilitation – or comes forward with a recommendation on training or attending a vocational training course or school but the persons with reduced working abilities does not accept the employer's initiative,
- the person with reduced working abilities is entitled to old-age pension, disability pension, accident disability pension, old-age annuity or work disability benefit,
- neither the employer, nor the committee of rehabilitation concerned can ensure a suitable workplace.

These statutory provisions protect both the persons with reduced working abilities and the employers. As for the latter, the law protects them from undue burdens that can derive from the employment of persons whose working abilities are low.

3.4. Financial support

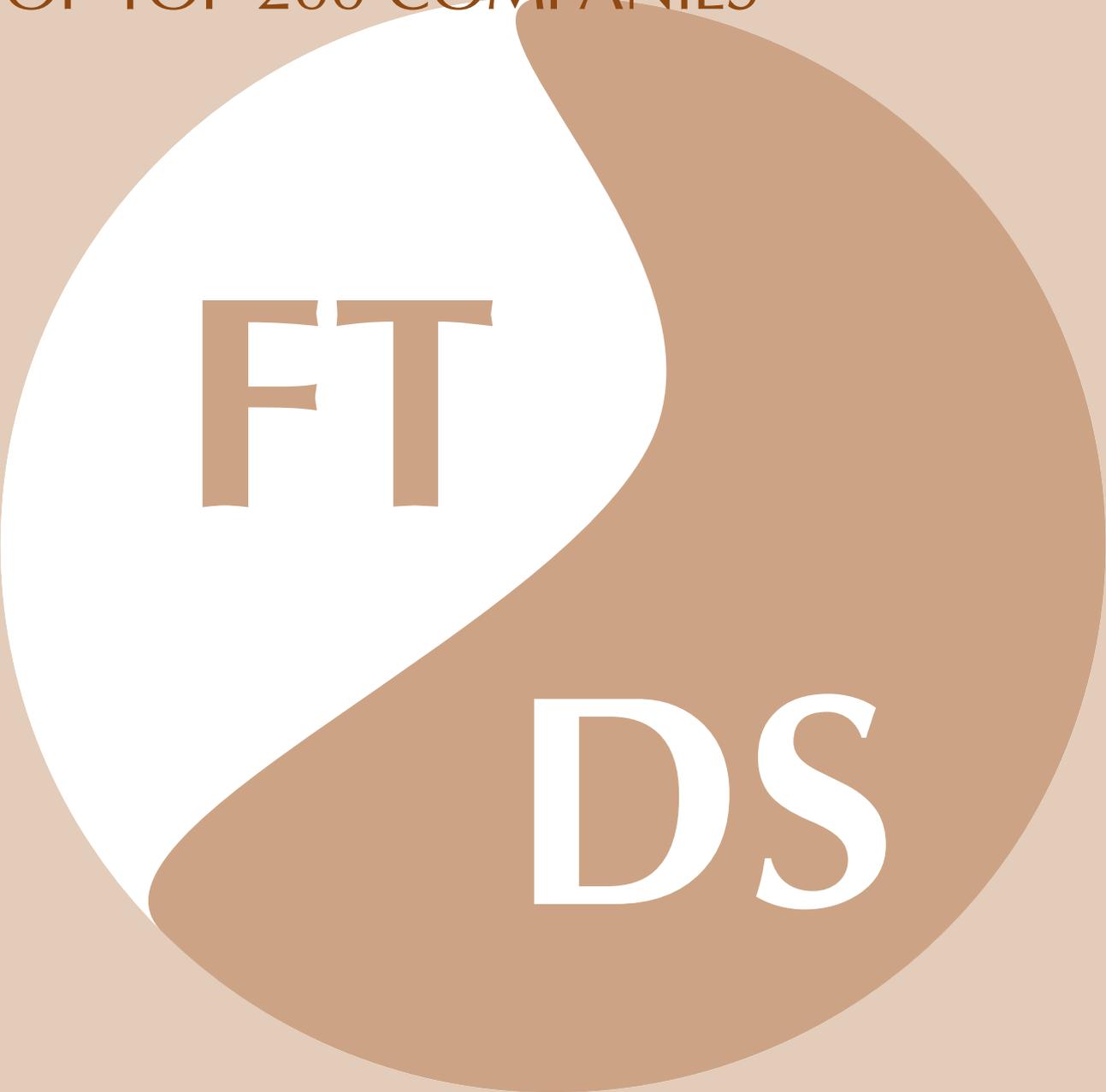
A person with reduced working abilities who cannot be employed in his original job is entitled – on the basis of the conditions defined by the decree of 1983 (as for instance, the measure of the decrease in his working abilities, the impact of his health impairment on his working performance) – to earnings supplement, temporary earnings supplement, income supplement or temporary income supplement. The size of support and the duration of entitlement are determined by several factors. They vary in the various forms of social welfare support. Entitlement is only valid if the person concerned is ready to accept the rehabilitative measure of the employer and he participates in the rehabilitative procedure. The earnings supplement and the income supplement are awarded for the duration of re-training (in a training course it can be a maximum of twelve months, in vocational training a higher sum

is awarded for a maximum of thirty months). An unemployed person with reduced working abilities may become entitled to the so-called training assistance, which covers his training-related costs plus earnings supplement.

People with severe disabilities older than 18 years of age are entitled to partial reimbursement of extra expenses stemming from their disabilities.

György Könczei, Róbert Komáromi, Roland Keszi, Lilla Vicsek

EMPLOYMENT OF PERSONS
WITH DISABILITIES
AND ALTERED WORKING ABILITY
USING A DATABASE
OF TOP 200 COMPANIES



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Employment of persons with disabilities and altered working ability using a database of TOP 200 companies

Executive Summary

The following paper is a brief summary of the study concluding the project and reporting on research results:

The first thing we did was report on an extensive amount of professional studies, which served as the background to the research. Our goal was to define the most important theoretical frameworks as a way of introducing the empirical research, as well as to prepare the reviews we had agreed to do in our research contract.

The professional studies we processed discussed many aspects of the problem in several sub-sections. The sub-sections included a detailed review and analysis of European Union acquis.

The Community Charter's articles on the basic social rights of employees were included as primary community law. In addition, we focused on the rights of persons with disabilities in secondary community law and case law, as well as on the rights of persons with disabilities in soft EU law – positions, recommendations, reports, etc.

In another sub-section, we presented the modern concept of rehabilitation and the values that influence it. We outlined and presented the most common forms of integrated employment. We included a treatise on the economy of rehabilitation employment.

We briefly reviewed several international examples of integrated employment and then discussed the results of an international empirical research project which asked similar questions to the ones in our own study.

Following that, we moved on to our research plan and presented the type of questionnaire we had planned to compile and why. We then discussed our considerations in choosing our sample. We explained why we needed to use case studies and focus-group interviews as methods and tools. We formulated our research hypotheses which we later contrasted with our results. We set down the lessons of organising the research, both for the whole of the project and for various areas of detail.

The factors behind the research plan

When designing our research plan we deliberately chose an area that has not been processed by either domestic or international professional studies. This area is a clearly circumscribable portion of integration. It is easy to describe and is a precisely regulated area in just about every country of Europe. The need for precision stems from the fact that the system offers a framework for the integration of a large number of persons with altered working abilities and with disabilities, at one and the same time.

This integration is achieved within the course of employment.

Our research centred on the extent to which the targeted population is integrated through employment, or to be more precise: how the targeted population is integrated.

In our research, we studied the employment specifics under which persons with disabilities and altered working abilities (as our target population) undertook employment in the 200 largest businesses (as far as inflows are concerned) in Hungary. (In other words, we did not study the non-profit sector.) The fact that interested us was the set of circumstances under which the largest 200 companies, which make up the driving force of the economy, actually hire people.

This target was both an advantage and a disadvantage for our research.

The advantage was that it yielded information from an area that no-one had previously investigated with a similar technology. To be precise regarding the technology, at this point we do not know of

- 1 any publication that presented the employment circumstances of this target population on this level of detail,
- 2 any publication that studied the employment circumstances of this target population on a sample and using a database this large,
- 3 any publication presenting the employment conditions of this target population using the 200 largest businesses in a given country. Our conclusions are valid only for the domestic and international studies that we were able to access.

It was an advantage that our research involved explorative social science analysis, adhering to the strict rules involved here. As in all explorative social science analyses, our project was focused on exposing basic issues, on working with descriptive samples of the target population and reporting on typical factors. The confirmative analyses, which offer a picture of day-to-day knowledge elements that prove or disprove the hypotheses, are built upon these.

At the same time it is a disadvantage that we were unable to rely on the results of earlier empirical research. We had to progress very cautiously with the formulation of our research hypotheses and with testing them because of this lack of prior experience. Cautious progress was made necessary by the fact that prior to our research, the structure of interaction between the 200 largest companies and the target population had been unexplored.

Despite this, we set down the following hypotheses (we will discuss acceptance or rejection later):

Research hypotheses:

- 1 Our initial hypothesis was that there were significant regional factors influencing both the supply and the demand side of the Hungarian labour market.
- 2 We hypothesised that the regional differences were manifest in the employment of persons with altered working ability.
- 3 We hypothesised that this was a complex relationship: that the supply of and demand for persons with disabilities and altered working ability was not a linear progression parallel to the open market but that in most cases, it was related through an inflexible lapse in phase. However, once the employment came about, we postulated that it would be stable.
- 4 This stability had two meanings: that the employee became a stable member of the workforce even if he or she exceptionally did change jobs, and that the employer who established a position of this sort, would not terminate it in most cases. Instead, the employer would retain staffing or increase it in this area.
- 5 We hypothesised that modern technologies and the appearance of multinational capital in Hungary would not result in a marked interruption in this type of employment. No doubt, there are exceptional cases but multinational ones do not typically employ more people in this category or do a better job of it either.

We used questionnaires to conduct our research.

After designing our questionnaire, we presented it to a limited professional audience for review, to enable us to rectify any possible errors and to offer it to several professionally recognised researchers

for possible use. After this, we ran test interviews from a circle outside of our database as a dry run. Our probe was threefold: we were testing the questionnaire, the interviewers, and the interviewees.

Our entire questionnaire is included in the closing report on the project, so here we mention only the most important subjects: Ownership structure, Number of employees, Patterns of age, gender, blue collar/white collar, manager/subordinate, Regional location, Average earnings, Number of persons with altered working abilities and disabilities (breakdown of types of disability), Patterns of age, gender, blue collar/white collar, manager/subordinate and earnings of target population, Advantages/disadvantages of employing target population, Knowledge of labour market information, Disabled access, Interest representation, collective bargaining agreements, Workplace participation and institutions, Company social benefits.

The questionnaire was made up of 12 pages with over 50 questions and several sub-questions related to them. The resulting data file contained over 100 variables. We began the interviewing process by contacting subjects through the mail or by telephone, which was followed up by a face-to-face meeting. It took about half an hour to fill out the questionnaire. The questionnaires were filled out by the human resources manager of the given company or by another person named by the HR manager.

Initially, we had wanted to use persons with disabilities as interviewers for the questionnaire, thus contributing to their knowledge of the labour market and expanding their job-finding opportunities. Later, we were forced to modify this concept.

This questionnaire was not an easy one to present. We did not find a sufficient number of interviewers with the appropriate skills. At the same time, we did not want to sacrifice the validity of the investigation, so 90 percent of the questionnaires were presented by professional interviewers who employ questionnaire techniques on a day-by-day basis. After the interviews, we of course, followed up each respondent by telephone, to ascertain the accuracy of the data recorded.

In addition to the questionnaires, we ran a case study at a TOP 200 company and prepared a focus group analysis.

The reason for the company case study was that we wanted to learn the relationship between the “passive” information received from the questionnaire and day-to-day experience. When designing the research plan, we had no way of anticipating the lessons that could be expected from this.

The focus group analysis was an approach from the aspect of the target population. Persons with disabilities and altered working ability voiced their work experience. When preparing the focus group interviews we found ourselves in the same situation regarding methodology as with the questionnaires. We have no knowledge to the effect that any similar analysis has been published. At the same time, we felt that a focus group interview would be a very effective way to map the pattern of target population opinions on employment.

There were several considerations for using the TOP 200 as our database.

One was that as far as numerous indices were concerned (number of persons employed, financial inflow, pre-tax profits, etc.) these were the largest organisations in the Hungarian economy operating under pure market principles. Of itself, the typical behaviour of the various businesses could determine how environmental factors evolved. Using this database is advantageous because a significant amount of basic data was known even prior to the research.

We think that the importance of these 200 largest companies is sufficient to determine the factors involving employment of persons with disabilities and altered working abilities, because:

- 1 They employ a significant number,
- 2 These companies can serve as examples to smaller companies,
- 3 The circumstances of this employment are important not only to the target population but in a latent way, they tell us about the integration abilities of the overall Hungarian economy.

The closing study offered a detailed picture of the TOP 200 companies, through various economic and accounting indices. We pointed out their role in the national economy and their positions compared to one another. We included a table of the various sectors of the national economy and where each of the TOP 200 fit in.

Other comments

As with all research, here too we have to calculate with manifest and latent results. The results we report in our closing study are manifest. We do not have the tools to measure the latent effects. However, we considered it important to plan for “intended” latent effects. We considered it important because we firmly believe that rehabilitation through employment is advantageous to all of society. Employment rehabilitation is the most advantageous if it occurs in an integrated workplace. Therefore, the TOP 200 firms used as the database for the research are 200 potentially integrated workplaces. They are 200 workplaces about which we have information at the conclusion of the research. And more important, they are 200 workplaces where at least one top human resource manager has information on the system of state support to employers of persons with disabilities and altered working abilities.

At the start of the research, the project managers considered this, and as we shall see, when analysing the data there were a very large number of responses which had very little information in this respect.

Most important results of processing the data:

The data are presented in the order of the questions on the questionnaire. We have condensed the information and have therefore, not listed each specific question.

1. GENERAL DATA

Overall, we received 138 questionnaires that could be analysed as against the 200 we had initiated, which is a 69 percent response ratio. International comparisons tells us that this response rate qualifies as excellent, and is more than satisfactory to represent the specifics of the TOP 200 firms as far as our subject was concerned.

Regarding form of ownership, foreign ownership was dominant, with the ratio of foreign ownership at 59.9 percent. This was followed in significance by domestic private ownership with 29.8 percent, and state ownership with 19.3 percent.

The companies in the sample employed an average of 2,419 persons according to January 1, 2001 data. This was the average number of permanent staff, a statistically insignificant decline from an average staff of 2,431 as of January 1, 2000.

A gender breakdown of the big firms yields an over-representation of men. Men made up 59 percent and women accounted for 41 percent of the employees of the firms in the sample.

Among the firms with majority Hungarian ownership, employees tended to be relatively older men while among the ones with majority foreign ownership, employees tended to be of the younger generations, with apparently less gender bias in employment, meaning lower levels of gender discrimination.

Managers said their average use of capacities was 88.35 percent.

As far as regional breakdown was concerned, the companies in Budapest and Pest County, and the Plains regions (central, eastern) planned to increase staff (by 1.3 percent and

13.7 percent) while the other regions expected to reduce employment. Businesses in Central Transdanubia (central west) and Northern Hungary expected to see significant (7-8 percent) staff cuts.

Only 17.4 percent of businesses in the sample said they had job vacancies for any length of time while the other 82.6 percent were fully staffed.

The largest number of vacant jobs were reported in Western Transdanubia (west Hungary), where 41.2 percent of the leading companies said they were unable to find suitable people for certain jobs. In Central Transdanubia (central west) the average was 22.2 percent.

The most widespread way of resolving needs for increased labour was through overtime. This method was employed by 82.5 percent of the employers in the sample.

The average earnings of employees in the sample – once the respondents who declined to answer this question were filtered out – was a gross salary of HUF 135,840/month, with a deviation of HUF 79,820. The mode of salaries was a gross of HUF 80,000/employee/month.

The Budapest and Pest County and – surprisingly – the Northern Hungarian companies offered the highest average earnings. We of course cannot draw conclusions on the overall income status of Northern Hungary from the salary data of the leading firms (HUF 154,500), for employees in these companies are in an advantageous situation. The income conditions of the overall region offer a far bleaker picture than the data of the leading corporations.

The high incomes of employees of the Budapest and Pest County businesses (HUF 150,170) conform to expectations.

In a breakdown by form of ownership, our data was less surprising. Employees in foreign owned corporations had the highest average earnings, an average gross salary of HUF 148,550/month.

As to the nature of work performed, the traditional production-oriented breakdown was typical of the top corporations. The larger portion, 62.1 percent, of the employees were blue-collar, and on average only 37.8 percent were white-collar workers.

An average of one-third of the workers in the corporations in the sample had grade eight education, 45 percent had secondary education, and 20.9 percent were college or university graduates.

As we had anticipated on the basis of data regarding the nature of work, Budapest and Pest County had more than the average number of university or college graduates, making up nearly one-third (29 percent) of staffs in this region. The highest proportion of blue-collar workers were in Central Transdanubia and the Central Plains (east-central Hungary). In all regions, the proportion of secondary school graduates made up the absolute majority (52-53 percent).

The Northern Plains (northeast), Budapest, and Pest County had the highest numbers of workers employed in alternative employment schemes. There also was significant alternative employment in Western Transdanubia. The lowest level of alternative employment was in the Southern Plains.

The most common form of alternative employment among the big corporations was part-time work, which was introduced in 54.3 percent of the companies. They also offered significant seasonal employment, affecting 23.2 percent of businesses, and other forms, which

10.1 percent had introduced. The other two specific types of alternative employment were rare: only 2.2 percent offered telework and 3.6 percent offered opportunities for manual work in the home.

2. WORKERS WITH DISABILITIES AND ALTERED WORKING ABILITIES

The larger share of the leading corporations in the sample, an average of 58.1 percent, employed persons with altered working abilities.

There were, however, significant regional differences in willingness to hire people with altered working abilities.

All the businesses in the sample from Southern Transdanubia employed people with altered working abilities, while only 44.4 percent of businesses in Central Transdanubia did so. In Northern Hungary, the rate of 72.7 percent, in the Northern Plains it was nearly two-thirds, and in Budapest and Pest County, half the corporations hire people with altered working ability.

As for gender inequalities, they are even more apparent in the employment of persons with disabilities and altered working abilities. Women made up only 39 percent of all employed persons with disabilities or altered working abilities, while men accounted for 61 percent. In other words, gender inequality was even greater among the target group of this research project than in the overall Hungarian labour market.

Women with altered working ability had a 3 percent less chance of getting a job than men in this category.

We did not find significant differences between companies by region, and we were only able to determine with certainty that the highest ratio of gender inequality in hiring was in Northern Hungary, where only 10.5 percent of workers with altered working ability were women. The least gender difference was in Budapest and Pest County where 47.6 percent of all employees with altered working ability were women.

Hungarian-owned firms hired a far lower ratio of persons with altered working abilities (29.4 percent). Among Hungarian-owned firms, gender discrimination when hiring persons with altered working ability was higher than among foreign-owned firms where the gender ratio was more or less equal (52 percent men to 48 percent women).

The average age of the employed person with altered working ability was 44.7. The lowest average age in a company was 27, while the highest was 55. Businesses in Northern Hungary and the Northern Plains had the oldest age structures, where the average age of employed persons with altered working abilities was 47, but there were no statistically significant differences from one region to the next.

Foreign owned corporations employed the youngest people with altered working ability. The average age of employees with altered working abilities was about three years younger than in Hungarian-owned corporations and five years younger than the average business with more than one dominant form of ownership. These values were statistically significant.

The average earnings of workers with altered working abilities were HUF 103,290, while in the same companies, the average earnings of staff whose working abilities were unaltered came to HUF 132,530. In other words, the gross earnings of persons with altered working abilities – once we have filtered out distortions for non-responses – was about 24.1 percent lower than the earnings of healthy employees.

As for income conditions, workers with altered working abilities in Budapest and Pest County were in the most advantageous position, for their average earnings came to HUF 118,320, while in Western Transdanubia the average was only HUF 67,500.

Clearly, the earnings data of employees with altered working abilities were in line with global earnings, so it was not surprising that those from Budapest were the highest.

What appear to be significant differences at first glance were not statistically significant, which means that the deviation in earnings of persons with altered working abilities could not be fully explained by regional differences.

In other words, location (by regions) did not predestine the average gross earnings of persons with altered working abilities in a statistically significant manner. This is why it was important to investigate the effects of other background variables, too.

Employees of businesses with majority foreign ownership were in the most advantageous position regarding earnings.

Persons with disabilities or altered working abilities working in Budapest and Pest County had the highest earnings. At the same time the income gap between persons with disabilities or altered working abilities and healthy workers employed by businesses in Budapest and Pest County was lower than for instance in the businesses operating in Western or Central Transdanubia. Also, in the absolute sense, people with altered working abilities were best off in the Budapest agglomeration while in the relative sense they were second best off there.

On the whole, the situation of persons with altered working abilities was best in and around Budapest, and worst in Western Transdanubia, Southern Transdanubia, and the Southern Plains in both relative and absolute terms.

As far as the dominant form of ownership is concerned, the relative gap in monthly gross earnings was lowest among foreign-owned companies. While the gap between the wages of persons with altered working abilities and healthy persons was an average of 26.7 percent for Hungarian-owned companies, it was 20.5 percent or 6 percent lower for foreign-owned ones.

In other words, the situation of persons with altered working abilities working for foreign-owned companies was better than their counterparts in Hungarian-owned businesses in the same segment of the labour market.

As far as absolute and relative gaps are concerned, the dichotomy between the rural regions and Budapest was also significant. People with altered working abilities working for foreign-owned companies in Budapest were in the best situation, while persons with altered working abilities working for Hungarian-owned businesses in Western and Southern Transdanubia or the Southern Plains were in the worst.

Most persons with altered working abilities were employed in jobs suitable for their skill level; some 51 percent of corporations placed these workers in jobs for which they had the appropriate skills.

While 84.8 percent of foreign-owned corporations were able to find work for employees with altered working abilities in their own trade/profession, in companies where Hungarians were the dominant owners, only 69.2 percent of workers with altered working abilities were employed in trades for which they had the skills.

Typically, persons with altered working abilities did white-collar work. An average of 70 percent of employees in this group did white collar work and 30 percent did blue-collar.

In Central Transdanubia and Northern Hungary, the ratio of persons with altered working abilities in blue-collar jobs was outstandingly high. In Northern Hungary and Southern Transdanubia it was far lower than average. The difference is statistically significant ($s=0.056$).

Regarding the dominant form of ownership, we did not find statistically significant differences in the employment of persons with altered working abilities. All in all Hungarian-owned corporations employed the lowest proportions of persons with altered working abilities in blue-collar jobs. While only 20.1 percent of persons with altered working abilities working in Hungarian-owned businesses did blue-collar work and 70.9 percent did white-collar work, in foreign owned companies 31.9 percent did blue collar work. In other words, it is more typical for foreign-owned corporations than Hungarian-owned ones to employ persons with altered working abilities in blue-collar jobs.

These data gave us a partial answer to why the situation of persons with altered working abilities was better in foreign-owned businesses. Since it would have been extremely complicated methodologically to try to glean information on the health status of persons with altered working abilities or related data, all we asked was whether the corporations employed people in this group. A conclusion we might draw from the fact that foreign-owned companies employed a higher ratio of persons with altered working abilities in blue collar jobs was that foreign-owned businesses tended to employ healthier people, people able to do manual work, so their absolute earnings situations might be objectively better than those of people in the same category working for companies where Hungarian ownership is predominant.

As far as their education level is concerned, employees with university or college education were under-represented compared to the overall employment, people with secondary education were more or less the same (3 percent below), and people with primary education were over-represented.

A study of the education levels of employed persons with altered working abilities did not yield a statistically interpretable pattern in a regional breakdown. However, dominant ownership was a significant explanatory variable. There were particularly large differences regarding the employment of university and college graduates.

Hungarian companies employed only a few people with altered working abilities with university or college educations, compared to both the average and to foreign-owned businesses.

These data again offered an indirect explanation for why our target segment of the labour market had higher earnings in both the relative and absolute sense when employed by foreign-owned firms. Workers in foreign-owned firms had higher education levels, and as a result were better able to lobby

for their own interests, so their average earnings were higher than those of persons with altered working abilities working in Hungarian-owned businesses.

Businesses employing persons with altered working abilities tended to prefer part-time employment among the alternative forms of employment available. In 43.5 percent of the businesses employing this target group, there were part-time jobs available for them. Seasonal employment of this group was much lower, existing in 9.3 percent of firms, and telework was offered by only 4.9 percent of the businesses.

While 62.5 percent of the companies in Budapest and Pest County employing persons with altered working abilities offered them part-time work, the ratio in the Northern Plains and Northern Hungary was less than one-third (20 percent in both areas).

There were also major differences as far as the dominant form of ownership was concerned. While 52.6 percent of the foreign-owned businesses employing persons with altered working abilities offered part-time jobs to people in this group, the ratio in Hungarian-owned firms was nearly 20 percent lower than that.

In general, we can conclude that businesses employing persons with altered working abilities made very little use of information from other sources or experience from elsewhere in evolving their employment practices.

Fully 92.3 percent of the corporations relied on their own experience, so compared to that, other resources or experience (Employment Centre information, assistance of organisations serving people with disabilities, etc.) was negligible.

Most of the major businesses had no contact whatsoever with rehab work groups and 62 percent had never received information from them.

Hungarian-owned businesses had stronger institutional ties and contacts, but foreign firms had stronger traditions of employing persons with disabilities or altered working abilities. Ownership structures resulting from the combination of the two forms of ownership – our data and the conclusions drawn from them show – had a positive influence on knowledge of the existence of rehab work groups.

According to the data, the most frequent form of co-operation between businesses and rehab work groups involved employment agencies. Some 25 percent of businesses that have established contacts with rehab work groups received help from these groups in finding employees. The work group provided subsidies and wage supports to 16.7 percent of these businesses. Some 16.7 percent received financial support from them for training and 6.8 percent were assisted in other ways.

The largest ratio of businesses that employed persons with altered working abilities hired persons with disabilities in the area of locomotion. Some 65.8 percent of these businesses employed persons with some type of difficulty in ambulating.

The second most frequent disability, employed by 24.1 percent of businesses involved hearing.

Some 19 percent of the corporations hired persons with vision problems, and 10.1 percent employed persons with more than one disability.

Persons with mental retardation were on the periphery of employed persons with disabilities, making up only 3.8 percent of overall employees with altered working ability.

On the whole, 82.3 percent of the firms employing persons with altered working abilities employed persons with disabilities, in the following regional breakdown:

in Western and Central Transdanubia and in the Northern Plains, all businesses that employed persons with altered working abilities also hired persons with disabilities, but in Budapest, Northern Hungary, and the Southern Plains, only a portion of them employed persons with disabilities.

As far as form of ownership was concerned, there was no significant difference between Hungarian-owned and foreign owned firms, regarding employment of persons with disabilities. Some 86.7 percent of foreign firms employed people from this group, while 89.7 percent of Hungarian firms did the same.

In only one case did we find a statistical interaction that was able to explain the number of working people with altered working ability among the variables. In the final analysis, we found the effects of four independent variables to be satisfactory, and they were the following:

The number of persons employed by a company (Q2.2)

Number of employees in a company working under alternative schemes (ALTMVSZ)

Intensity of problems arising when employing persons with disabilities (FOGYPROB)

Regional development dimension (REGIODUM)

The willingness of businesses to employ persons with altered working abilities can be described with a regression model. The two organisational background characteristics, regional location and the size of the perceived problem, operate in combination as a latent variable. While businesses in the more advanced regions employed more persons with altered working abilities, they only did so if the problems they perceived were low in level. In other words, the “interactive” effect of the two variables was the mechanism that defined willingness to employ persons with altered working abilities.

Human resource specialists in big corporations considered lack of specific jobs for this group of workers to be the biggest problem and the workers’ own fear to be the smallest, when hiring persons with disabilities. For businesses in the Southern Plains, Budapest and Pest County, and Central Transdanubia, employment of persons with disabilities is (would be) a major problem, while in the other regions, problems were smaller.

Human resource managers consider the greatest advantage of employing persons with disabilities that they tend to be loyal. This is followed by the precision with which they perform their work. Our research found that state support, which makes it relatively cheaper to employ people in this group, did not appear to be an advantage considered by employers.

Some 43.5 percent of company human resource professionals were unable to give their views on the system regulating the employment of persons with disabilities, probably because they do not know enough about it. The other important factor is that only about one-third of these specialists considered the regulations to be advantageous but only 2.2 percent said they were fully advantageous. The others were either unable to give an opinion, or did not know the rules and refrained from offering an opinion for that reason. This means there are shortcomings with regard to disseminating information on or popularising legal regulations.

Opinions also differed on whether the network of rules governing the employment of persons with disabilities really helped to employ this group of people.

Some 45 percent of respondents were unable to decide whether the rules governing the employment of persons with disabilities promoted their employment. At the same time, 10 percent said the rules were expressly harmful.

Some 50 percent of respondents said their company was not mandated to provide continued employment for an employee whose working ability was altered while in their employ.

Sixty-seven percent of the workplaces were not disabled-accessible.

Twenty percent of the firms did not have workplace councils. However, 75 percent had collective bargaining agreements, and 17 percent of those collective bargaining agreements covered persons with disabilities or altered working abilities.

Analysing the focus group:

One part of our investigation was analysis of a focus group whose main subject was the working experience of persons with disabilities or altered working abilities. The analysis included possible affects of group composition and the observed processes of group dynamics.

Most participants were uneasy. For some, the main cause of their uneasiness was fear that they would not be able to continue to do their jobs for very long, while others were uneasy because they didn’t have jobs, and almost all had a hard time making ends meet. Added to this came negative experience

with the way on-the-job colleagues related to them, the humiliating nature of mandatory health examinations, and the feeling that there was no organisation which assisted them. The government considers them a liability, many said. Most of the older participants said they felt lost since the political regime change of 1989.

Participants who did only ad hoc work or were jobless all said they would like to work, mainly for financial reasons, but also to spend their time in a useful manner.

Participants reported on major difficulties both when looking for jobs and when doing the work. The lack of appropriate jobs in Hungary is a major problem. Most participants would have liked telework or four or six-hour jobs involving light work, but very few jobs of this type were available. The difficulties in finding a job, in addition to the altered working ability, were age-related, principally for older participants. For them, therefore, the disadvantages of age and altered working ability were combined.

For some, disability itself was not the problem when seeking and performing work, but the disability retirement status. They felt that employers were less willing to hire people with disability pensions because these people already had an extra income. They also reported experience in which colleagues and supervisors responded to them negatively because they had extra income through their pensions. We believe that part of this problem lies in the term "pension," which suggests that it is not "appropriate" to work when receiving this benefit. At the same time, the pensions are so low that disabled people are forced to work, many people said.

Another problem raised by several was that they did not have cars and thus were unable to commute to work. Other problems mentioned were high-level expectations of their work and low levels of employer tolerance.

We believe that the outcome of the focus group can be considered a hypothesis that is applicable to residents of Budapest who are over the age of 40, and have a disability or altered working ability.

Case study:

The case study is a presentation of an initiative by Company X to design a network that co-ordinates and controls the continued employment of the company's employees with altered working abilities. It includes a brief description of the factors leading up to the network, the main reasons why it was designed, its structure and how it operates, the models on which the initiative was based and the difficulties in adapting them, and what to expect in the future.

The result of the analysis was as follows: the main reason why Company X decided to design a nationwide network, the interviewee said, was because it had lost a series of labour-related lawsuits costing it a growing amount of money. Many employees, whose working abilities were altered, felt that the company had not performed the mandatory rehabilitation required by law. They claimed in the proceedings that the company could have found appropriate occupations to keep them on staff and continue employing them. In many cases, courts ruled that the employer had violated the law and made them pay high sums in damages. The growing amounts of the fines triggered action by company management.

It was not even mentioned or hinted at that the company might want to use the move, at least in part, to improve its image or the lot of employees by hiring persons with altered working abilities. The interviewee said that in Hungary this was not a motivating factor.

In addition, we learned during the interview that the network would offer work to only 5-10 persons a year. Many rehab lawsuits will probably be decided against the person with altered working ability because the job offered will be in a different settlement than the previous job. But, at least the employer will be able to document the fact that it conducted a rehab procedure, which means that it will be able to save the costs incurred when losing a labour lawsuit.

We might ask what establishing a complex system like this is worth if it does not help the people in question to move from one location to another. Unless it does that, the whole initiative appears really to be an alibi to avoid losing a labour lawsuit without Company X making a substantive contribution to continuing to employ persons whose working abilities are altered.

Concluding comments

Going back to our original hypotheses – after studying the results of our processed data – we concluded the following:

There are regional differences in the employment of persons with disabilities or altered working abilities, as we have already analysed in detail. However, the regional differences are reduced in effect when ownership structure is introduced. Ownership structure is much more defining when it comes to employing our target population than any other variable. Within ownership structure, people working for foreign-owned firms have demonstrably higher earnings. Foreign-owned firms employ higher proportions of younger and of white-collar workers than other employers.

We firmly believe that our research employed a correct methodology and applied it consistently during the investigation. However, methodological consistency does not allow us to attempt to test hypotheses that are not sufficiently grounded. This will have to be done by future research that relies on this database. At the same time, we do not consider that the results of this research project are final. Instead, we plan to expand upon them in a confirmation project scheduled for the near future.

In addition, we also intend to conduct longitudinal studies of our TOP 200 database on this subject every two years.

ACT CXXV. OF 2003
ON EQUAL TREATMENT
AND THE PROMOTION
OF EQUAL OPPORTUNITIES



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Act CXXV. of 2003¹ on equal treatment and the promotion of equal opportunities

The Parliament,
acknowledging every person's right to live as a person of equal dignity,
intending to provide effective legal aid to those suffering from negative discrimination,
declaring that the promotion of equal opportunities is principally the duty of the State,
having regard to Articles 54 (1) and 70/A of the Constitution, the international obligations of the
Republic and the legal acts of the European Union,
hereby enacts the following Act:

CHAPTER I GENERAL PROVISIONS

ARTICLE 1

Pursuant to the principle of equal treatment, all natural persons abiding in the area of the Republic of Hungary and any groups thereof, as well as legal entities and organizations without legal entity, shall be treated with the same respect and deliberation and their special considerations shall be equally respected.

ARTICLE 2

Provisions pertaining to the principle of equal treatment, set out in separate legal acts, shall be applied in harmony with the provisions of this Act.

DEFINITIONS

ARTICLE 3

For the purposes of this Act

- a) employment relationship: employment, public service relationship, civil service relationship, judicial service relationship, legal service relationship, prosecution service relationship, professional and contracted service relationship, professional foster parent relationship;
- b) other relationship aimed at employment: work-from-home employment relationship, relationship created pursuant to a contract for employment, membership in a professional group, and elements of the co-operative membership and partnership activities under economic and civil law involving personal contribution and aimed at employment;
- c) state aid: grants and subsidies from the budgets of the subsystems of public finances, and the provision in any form of other advantages involving loss of income by the state or state expenditure, also including state guarantees, and funds, donations and grants originating from the European Union, international organizations or other states if they are paid by the central budget;
- d) public service: services aimed at satisfying the population's basic needs pursuant to an obligation to enter into contract, especially electricity, gas, heat, water, sewage and waste treatment, public sanitation, postal and telecommunication services and scheduled passenger transport services;
- e) social and interest representation organization: social organization or foundation whose objectives set out in its articles of association or statutes include the promotion of the equal social opportu-

¹ Adopted by the Parliament 22 December 2003

nities of disadvantaged groups or the protection of human or personal rights; and, in respect of a particular national and ethnic minority, the minority government; further-more the trade union in respect of matters related to employees' material, social and cultural situation and living and working conditions;

- f) relative: the person defined as such by Paragraph b) of Section 685 of the Civil Code with the exception of fiancées.

SCOPE

ARTICLE 4

The principle of equal treatment shall be observed by

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

ARTICLE 5

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

- a) those who make a proposal to persons not previously selected to enter into contract or invite such persons for tender,
- b) those who provide services or sell goods at their premises open to customers,
- c) self-employed persons, legal entities and organizations without a legal entity receiving state aid, in respect of their relationships established in the course of their utilization of such a state aid, from the time when the state aid is utilized until the competent authorities can audit the utilization of the state aid in accordance with the applicable regulations; and
- d) employers in respect of employment relationships and persons entitled to give instructions in respect of other relationships aimed at employment and relationships directly related thereto.

ARTICLE 6

(1) The scope of this Act does not extend to

- a) family law relationships;
- b) relationships between relatives;
- c) relationships directly connected with the activities of the religious life of the churches; and
- d) when Article 4 of this Act is applied – in the absence of a legal act providing to the contrary –, social organizations, relationships between the members of legal entities and organizations without a legal entity and relationships related to membership, except for the establishment of membership.

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

- a) the establishment and cancellation of membership relationship, and
- b) the relationships of parties with the exception of the characteristic defined in Article 8 j).

ARTICLE 7

- (1) Direct negative discrimination, indirect negative discrimination, harassment, unlawful segregation, retribution, and any orders issued therefore mean a breach of the principle of equal treatment, especially as set out in Chapter III.
- (2) The principle of equal treatment is not breached by behavior, measure, condition, omission, instruction or practice (hereinafter collectively: provision) based on a characteristic related to any of the grounds referred to in Article 8, provided that they are found by objective consideration to have a reasonable explanation directly related to the relevant relationship.

NEGATIVE DISCRIMINATION

ARTICLE 8

Provisions that result in a person or a group is treated less favorably than another person or group in a comparable situation because of his/her

- a) sex,
 - b) racial origin,
 - c) color,
 - d) nationality,
 - e) national or ethnic origin,
 - f) mother tongue,
 - g) disability,
 - h) state of health,
 - i) religious or ideological conviction,
 - j) political or other opinion,
 - k) family status,
 - l) motherhood (pregnancy) or fatherhood,
 - m) sexual orientation,
 - n) sexual identity,
 - o) age,
 - p) social origin,
 - q) financial status,
 - r) the parttime nature or definite term of the employment relationship or other relationship related to employment,
 - s) the membership of an organization representing employees' interests,
 - t) other status, attribute or characteristic (hereinafter collectively: characteristics)
- are considered direct discrimination.

ARTICLE 9

Provisions that are not considered direct negative discrimination and apparently comply with the principle of equal treatment but put any persons or groups having characteristics defined in Article 8 at a considerably larger disadvantage compared with other persons or groups in a similar situation are considered indirect discrimination.

HARASSMENT, UNLAWFUL SEGREGATION, RETRIBUTION

ARTICLE 10

- (1) Harassment is a conduct violating human dignity related to the relevant person's characteristic defined in Article 8 with the purpose or effect of creating an intimidating, hostile, degrading, humiliating or offensive environment around a particular person.
- (2) Unlawful segregation is a conduct that separates individuals or groups of individuals from others on the basis of their characteristics as defined in Article 8 without a reasonable explanation resulting from objective consideration.

- (3) Retribution is a conduct that causes infringement, is aimed at infringement, or threatens infringement, against the person making a complaint or initiating procedures because of a breach of the principle of equal treatment, or against a person assisting in such a procedure, in relation to these acts.

POSITIVE DISCRIMINATION

ARTICLE 11

- (1) The measure aimed at the elimination of inequality of opportunities based on an objective assessment of an expressly identified social group is not considered a breach of the principle of equal treatment if
 - a) it is based on an act, on a government decree based on an act or on a collective contract, effective for a definite term or until a specific condition is met,
 - b) the election of a party's executive and representative organ and the setting up of a candidate at the elections defined at the Act on the Electoral Procedures is executed in line with the party's fundamental rules.
- (2) A measure aimed at evening out a disadvantage shall not violate any basic rights, shall not provide unconditional advantage, and shall not exclude the consideration of individual circumstances.

CHAPTER II *PROCEDURES INITIATED BECAUSE OF A BREACH OF THE PRINCIPLE OF EQUAL TREATMENT*

ARTICLE 12

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

PROCEDURE IN CASE OF A BREACH OF THIS ACT

ARTICLE 13

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

ARTICLE 14

The Authority shall

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

- e) regularly inform the public and the Government about the situation concerning the enforcement of equal treatment;
 - f) in the course of performing its duties, co-operate with the social and representation organizations and the relevant state bodies;
 - g) continually provide information to those concerned and offer help with acting against the violation of equal treatment;
 - h) assist in the preparation of governmental reports to international organizations, especially to the Council of Europe concerning the principle of equal treatment;
 - i) assist in the preparation of the reports for the Commission of the European Union concerning the harmonization of directives on equal treatment;
 - j) prepare an annual report to the Government on the activity of the Authority and its experiences obtained in the course of the application of this Act.
- (2) In the course of applying Paragraph (1) a) the Authority shall proceed in accordance with the provisions of Act IV of 1957 on the general procedures of state administration, with the differences regulated herein.
- (3) The Authority shall perform its duties set out in Paragraph (1) c)–j) in co-operation with an advisory body whose members have extensive experience in the protection of human rights and in enforcing the principle of equal treatment, and have been invited by the Prime Minister to join the aforementioned body.

ARTICLE 15

- (1) A violation of the principle of equal treatment within the scope of this Act shall be investigated by
- a) the Authority or
 - b) another public administration body that has been granted authority in a separate act for assessing violations of the principle of equal treatment, as chosen by the offended party.
- (2) The Authority shall inform the public administration body granted authority by a separate act, and this public administration body shall inform the Authority, about the initiation of the procedure.
- (3) If a procedure has been initiated before any public administration body pursuant to Paragraph (1), then in the same matter other public administration bodies
- a) cannot proceed in the case of a violation of law committed against the same person,
 - b) shall suspend their procedure initiated in case of a violation of law committed against another person until a binding judgment is made in the matter.
- (4) If the matter has been judged by any public administration body pursuant to Paragraph (1), then in the same matter other public administration bodies
- a) cannot proceed in the case of a violation of law committed against the same person,
 - b) shall proceed using the facts of the case established in the binding decision in its procedure in case of a violation of law committed against another person.
- (5) The Authority shall also proceed ex officio in cases where the principle of equal treatment is violated by the bodies defined in Article 4 (1) a)–d) if there are no procedures under way in the particular matter before any other public administration bodies.
- (6) The Authority cannot investigate decisions and measures of public power by the Parliament, the President, the Constitutional Court, the State Audit Office, the Parliament commissioner of civil rights, the Parliament commissioner of national and ethnic minority rights, the Parliament commissioner the data protection, the courts and the public prosecution.
- (7) The Authority may participate as an interpleader in the judicial review of a public administrative decision made by another public administrative body concerning the principle of equal treatment.

ARTICLE 16

- (1) If the Authority has established that the provisions ensuring the principle of equal treatment laid down herein have been violated, they may
- a) order that the situation constituting a violation of law be eliminated,
 - b) prohibit the further continuation of the conduct constituting a violation of law,

- c) publish its decision establishing the violation of law,
 - d) impose a fine,
 - e) apply a legal consequence determined in a special act.
- (2) The legal consequences set out in Paragraph (1) shall be determined taking into consideration all circumstances of the case, with particular regard to those who have been effected by the violation of law, the consequences of the violation of law, the duration of the situation constituting a violation of law, the repeated demonstration of conduct constituting a violation of law and the financial standing of the person or entity committing such a violation.
 - (3) The legal consequences set out in Paragraph (1) can also be applied collectively.
 - (4) The amount of the fine inflicted in accordance with Paragraph (1) d) can be from fifty thousand to six million Hungarian forints. The fine shall be payable to the budgetary appropriation of the Republican Equal Opportunities Program.

ARTICLE 17

- (1) The decision of the Authority cannot be appealed against in the scope of a public administrative procedure.
- (2) The decision of the Authority concerning the violation of the principle of equal treatment cannot be altered or annulled by supervisory powers.
- (3) According to the general rules applicable to public administration decisions, the court can review a decision of the Authority. The lawsuit falls within the scope of authority and exclusive competence of the Metropolitan Court.
- (4) The Metropolitan Court shall proceed through a panel comprised of three professional judges.

REPRESENTATION

ARTICLE 18

- (1) Unless otherwise stipulated by the law, the social and interest representation organization and the Authority may act as a representative authorized by the party who suffered a violation of law in procedures initiated because of a violation of the principle of equal treatment.
- (2) In a public administrative procedure initiated because of the violation of the principle of equal treatment, the social and interest representation organization is entitled to the rights of the client.

BURDEN OF PROOF

ARTICLE 19

- (1) In procedures initiated because of a violation of the principle of equal treatment, the injured party or the party entitled to assert claims of public interest must prove that
 - a) the injured person or group has suffered a disadvantage, and
 - b) the injured party or group possessing characteristics defined in Article 8.
- (2) If the case described in Paragraph (1) has been proven, the other party shall prove that
 - a) it has observed or
 - b) in respect of the relevant relationship was not obliged to observe,
 the principle of equal treatment.
- (3) The provisions set out in Paragraphs (1)-(2) shall not apply to criminal procedures and to procedures of minor offences.

ASSERTION OF CLAIMS OF PUBLIC INTEREST

ARTICLE 20

- (1) A lawsuit under personal or labor law because of a violation of the principle of equal treatment before the court can be initiated by
 - a) the Public Prosecutor,

- b) the Authority, or
 - c) the social and interest representation organization,
- if the violation of the principle of equal treatment was based on a characteristic that is an essential feature of the individual, and the violation of law affects a larger group of persons that cannot be determined accurately.
- (2) The compensation and fines of public interest imposed in the lawsuit initiated by the application of Paragraph (1) are due to pay to the central budget.

CHAPTER III

ENFORCEMENT OF THE PRINCIPLE OF EQUAL TREATMENT IN VARIOUS SITUATIONS

EMPLOYMENT

ARTICLE 21

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

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

ARTICLE 22

The principle of equal treatment is not violated if

- a) the discrimination is proportional, justified by the characteristic or nature of the work and is based on all relevant and legitimate terms and conditions, or
- b) the discrimination arises directly from a religious or other ideological conviction or national or ethnic origin fundamentally determining the nature of the organization, and it is proportional and justified by the nature of the employment activity or the conditions of its pursuit.

ARTICLE 23

An act, a government decree based on an act or collective contract may order an obligation for positive discrimination for a specified group of employees in respect of the employment relationship or other relationship aimed at employment.

Social security and health care

ARTICLE 24

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

- a) financed from the social security systems, and
- b) providing social, or financial and in-kind child protection or personal care.

ARTICLE 25

- (1) The principle of equal treatment shall be enforced in respect of health care, particularly in respect of the provision of health services, including
 - a) participation in preventive programs and medical check-ups,
 - b) preventive medical care,
 - c) use of premises for residence,
 - d) the satisfaction of dietary and other needs.
- (2) Pursuant to or authorized by the law and based on health, disability or a characteristic defined in Article 8, a government decree may grant additional benefits to specified groups of society within the framework of the social and health care system, in accordance with the provisions herein.

HOUSING

ARTICLE 26

- (1) It is a particular violation of the principle of equal treatment when any persons because of their characteristics defined in Article 8 are
 - a) inflicted with direct or indirect negative discrimination in respect of the granting of housing subsidies, benefits, interest subsidies by the state or a municipality,
 - b) put in a disadvantageous position in determining the conditions of sale or leasing of state-owned or municipal housing and plots.
- (2) The issue of occupancy and other building permits by the relevant authorities cannot be denied, or tied to any conditions, based directly or indirectly on characteristics defined Article 8.
- (3) The conditions of access to housing shall not be determined with the aim of artificially separating any particular groups based on characteristics defined in Article 8 to any settlement or part thereof, rather than by the group's voluntary decision.

EDUCATION AND TRAINING

ARTICLE 27

- (1) The principle of equal treatment extends to any care, education and training
 - a) carried out in accordance with requirements approved or ordered by the State, or
 - b) whose organization is supported by the State
 - ba) by direct normative budgetary subsidy, or
 - bb) indirectly, especially by releasing or clearing taxes or by tax credit (hereinafter collectively: education).
- (2) The principle of equal treatment shall be enforced in relation to education defined in Paragraph (1), particularly in
 - a) determining the conditions of joining education and assessing applications,
 - b) defining and setting the requirements for education,
 - c) performance evaluation,
 - d) providing and using services related to education,
 - e) access to benefits related to education,
 - f) accommodation and supplement in dormitories,
 - g) issuing certificates and diplomas obtainable in education,
 - h) access to vocational guidance, and
 - i) the termination of the relationship related to participation in education.
- (3) The principle of equal treatment is especially violated if a person or group is
 - a) unlawfully segregated in an educational institution, or in a division, class or group within such an educational institution,

- b) limited to a care or educational system, or a care or educational system or institution is created or maintained whose standards do not reach accepted professional requirements or do not meet professional rules, and thus do not ensure a reasonably expectable opportunity to prepare for state exams.
- (4) Educational institutions shall not have groups pursuing extracurricular activities, pupil or student societies and other organizations of pupils, students or parents whose objective is to discredit, stigmatize or exclude individuals or groups.

ARTICLE 28

- (1) If the education is only organized for students of one sex, it does not violate the principle of equal treatment, provided that participation in such an education is voluntary, and will not result in any disadvantages for the participants.
- (2) The principle of equal treatment is not violated if,
 - a) in elementary and higher education, at the initiation and by the voluntary choice of the parents,
 - b) at college or university by the students' voluntary participation, education based on religious or other ideological conviction, or education for ethnic or other minorities is organized whose objective or program justifies the creation of segregated classes or groups; provided that this does not result in any disadvantage for those participating in such an education, and the education complies with the requirements approved, laid down and subsidized by the State.
- (3) Any legal act may divert from Article 27 (2) a) in respect of educational institutions serving the protection of linguistic or cultural identity or the purposes of a church, ethnic or other minority.

ARTICLE 29

A government decree created pursuant to the law or the authorization thereof may order an obligation to give positive discrimination to a specified group of participants in education within or outside the school system in respect of education or training.

SALE OF GOODS AND USE OF SERVICES

ARTICLE 30

- (1) It is considered a particular violation of the principle of equal treatment if at premises open to customers, particularly in catering, commercial, cultural and entertainment establishments, and based on a characteristic defined in Article 8,
 - a) the provision of services or sale of goods is denied or neglected,
 - b) the services provided and goods sold are not of the same quality as those normally available at the particular premises,
 - c) putting up a notice or sign implying that a certain individual or individuals are excluded from the provision of services or sale of goods at the premises.
- (2) Entry into premises established for a group defined by characteristics defined in Article 8 for the purposes of preserving traditions or maintaining cultural or self identity and open to the immediate public may be limited or subject to membership or specific conditions.
- (3) The limitation in accordance with paragraph (2) must be obvious from the name of the establishment and the circumstances of the use of the service; and this shall not be done in a manner humiliating and defamatory to individuals who do not belong to the particular group, and furthermore it must not provide an opportunity for abusing the law.

CHAPTER IV

REPUBLICAN EQUAL OPPORTUNITIES PROGRAM

ARTICLE 31

- (1) The objective of the Republican Equal Opportunities Program (hereinafter: Program) is to prevent negative discrimination and to promote the equal opportunities of certain specific social groups in all aspects of life.
- (2) The Program includes all governmental measures serving the objective defined in Paragraph (1).
- (3) Funds from the central budget for the Program are ensured by the Act on the Budget of the Republic of Hungary.

ARTICLE 32

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

ARTICLE 33

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

ARTICLE 34

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

ARTICLE 35

In harmony with the Program local authorities can adopt local equal opportunities Program, which analyses the state of the disadvantaged groups living in the settlement and defines the purposes of promoting the equal opportunities of these groups. The equal opportunities Program of the local authority comprises especially the purposes connected with the duties performed by the local authority and with the local public affairs, the demand of sources and the time of realization.

ARTICLE 36

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

CHAPTER V AMENDED LEGAL ACTS

ARTICLE 37

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

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

ARTICLE 38

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

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

ARTICLE 39

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

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

ARTICLE 40

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

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

ARTICLE 41

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

“The principle of equal treatment

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

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

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

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

“Equal Opportunities Plan

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

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

a) women,

b) employees over forty years old,

c) Romany Gypsies,

d) disabled people, and

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

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

- (3) The special personal data required for the preparation of the equal opportunities plan can only be managed in accordance with the provisions of Act LXIII on the Protection of Personal Data and the Publicity of Data of Public Interest, voluntarily provided by the individuals concerned and until the last day of the period incorporated in the equal opportunities plan.”
- (4) In Article 100 (3) a), of the LC, the text “the banning of negative discrimination” shall be replaced by “the requirement of equal opportunities”.
- (5) In Article 106/A (1) g) of the LC the text “the principle of equal treatment for men and women, and of non-discrimination regulations” shall be replaced by “the principle of equal treatment”.
- (6) In Article 142/A (1) of the LC the text “no unjustified discrimination shall be made among the employees” shall be replaced by “the principle of equal treatment shall be observed”, and in Paragraph (4) the text “so that it cannot result in negative discrimination among the employees (Article 5)” shall be replaced by “shall comply with the principle of equal treatment”.
- (7) Article 193/G (5) c) of the LC shall be replaced by the following:
“(Throughout the duration of the work the borrower shall be considered the employer)
c) in respect of the principle of equal treatment,
(and in respect of observing the rules applicable to the records kept thereof.)”
- (8) The following new paragraphs h)–j) shall be added to Article 212 (2) of the LC:
“(Within the framework of Section 3 of Act I of 1994 promulgating the Europe Agreement establishing an association between the Republic of Hungary and the European Communities and their member states, signed in Brussels on 16 December 1991, this Act contains regulations designed to approximate the following legal regulations of the European Communities:)
h) Council Directive 75/117/EC on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women,
i) Council Directive 92/85/EC on the introduction of measures to encourage improvements in safety and health at work of pregnant employees and employees who have recently given birth or are breastfeeding,
j) Council Directive 96/34/EC K on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC.”

ARTICLE 42

- (1) The text “in the banning of negative discrimination [Article 5 (1)–(2) and (4)],” in Article 60 (3) a) of Act XXIII of 1992 on the legal status of civil servants (hereinafter: CSA) shall be replaced by “the principle of equal treatment” (Article 5 of the LC),”.
- (2) Article 71 (2) a) of the CSA shall be replaced by the following:
“(The following provisions of the Labor Code shall apply as appropriate:)
a) Article 3 (1)–(4), Article 4, Articles 5–12, Articles 15–19/A, Articles 21–28, Article 70/A, Article 74, Article 77, Article 84/A, Article 85, Articles 86/B–86/D, Article 97, Article 102 (1)–(3), Article 103 (1)–(2) and (4), Article 104 (4)–(5), Article 107, Article 117 (1), Article 117/B (5), Article 118 (2), Article 118/A (4)–(5), Article 119 (1)–(2) and (5), Articles 120–121, Articles 123–126, Article 127 (1)–(2) and (6)–(7), Article 128 (1), Article 129, Article 130 (2), Article 132 (1)–(3), Article 133, Article 135–140/A, Article 142/A, Article 144 (1), Article 151 (2)–(4), Article 152–153, sentences 1 and 3 of Article 154 (1), Article 155–157, Articles 159–164, Article 165 (2), Article 166 (2), Article 167 (1) és (3), Articles 168–169, Articles 171–172, Article 174, Articles 176–183, Article 184 (1)–(2), Article 185–187, Article 204–205, Article 207;”

ARTICLE 43

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

ARTICLE 44

The first sentence of Article 94/E (2) of Act III of 1993 on social administration and social benefits shall be replaced by the following:
“The principle of equal treatment shall be observed in providing social services.”

ARTICLE 45

- (1) Article 4 (7)–(14) of Act LXXIX of 1993 on public elementary education (hereinafter: PEA) shall be repealed, and paragraph (15) shall be renumbered as paragraph (7).
- (2) The following new Article 4/A shall be added to the PEA:
“Article 4/A (1) Those involved in the organization, administration, operation and performance of duties of elementary education shall observe the principle of equal treatment in their decisions and measures related to children and pupils.
- (2) Pursuant to the principle of equal treatment, every child or pupil has the right to receive care of the same standard and subject to the same conditions as others whose situation is comparable to that of the child or pupil.
- (4) The consequences of the violation of the principle of equal treatment shall be remedied as appropriate, and shall not entail the violation or derogation of other children’s or pupils’ rights.
- (5) The violation of the principle of equal treatment can be remedied in the scope of the procedure regulated in this Act. Irrespective of its outcome, conducting a procedure regulated in this Act does not exclude the possibility of enforcing the rights related to the individual before the courts, or initiating another procedure suitable for establishing responsibilities and its legal consequences.
- (6) When applying this Article, the provisions of Act on equal treatment shall also apply.”
- (7) In Article 84 (7) of the PEA, the text “conflicting with the banning of negative discrimination” shall be replaced by “violating the principle of equal treatment”, and in Article 95/A (4) the text “to the banning of negative discrimination” shall be replaced by “to the principle of equal treatment”.

ARTICLE 46

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

ARTICLE 47

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

ARTICLE 48

- (1) Article 6 of Act XLIII of 1996 on the Service of Professional Members of the Armed Forces (hereinafter: AFA) and the previous subtitle shall be replaced by the following:
“Principle of equal treatment
Article 6 (1) The principle of equal treatment shall be observed in respect of the service relationship.
- (2) The armed forces shall, without discrimination, ensure the opportunity for career advancement to members of the regular armed forces solely on the basis of professional skills, experience, performance and time spent in service, taking into consideration the constraints applicable to rank and position.”
- (3) In Article 197 (7) of the AFA “in the banning of negative discrimination” shall be replaced by “in the principle of equal treatment”.

ARTICLE 49

- (1) Article 16 (4) of Act of XLIV of 1996 on the conditions of national military service (hereinafter: NMSA) shall be replaced by the following:
“(4) Attendance of, or abstaining from, spiritual nurturing and attendance of, or abstaining from religious ceremonies shall not result in the violation of the principle of equal treatment.”
- (2) Article 30 (2) of the NMSA shall be replaced by the following:
“(2) His membership in a labor organization or the lack thereof shall not result in the violation of the principle of equal treatment in respect of the soldier doing his national service.”

ARTICLE 50

- (1) In Article 1 (2) a) of Act LXXV of 1996 on the supervision of labor affairs (hereinafter: LASA) the text “banning of negative discrimination” shall be replaced by “principle of equal treatment”.
- (2) Article 3 (1) d) of the LASA shall be replaced by the following:
“d) principle of equal treatment,”
- (3) Article 8 (4) of the LASA shall be repealed.

ARTICLE 51

Article 61 of Act CXVI of 1996 on atomic energy shall be replaced by the following:
“Article 61 The provisions of this Chapter shall be applied observing the principle of equal treatment.”

ARTICLE 52

Article 3 (2) of Act XXXI of 1997 on child protection and legal guardianship shall be replaced by the following:
“(2) The principle of equal treatment shall be observed in the course of protecting children.”

ARTICLE 53

Article 2 of Act CXL of 1997 on museum institutions, the supply of public libraries, and public education shall be replaced by the following:
“Article 2 The rights set out herein shall be enforced observing the principle of equal treatment.”

ARTICLE 54

- (1) In Article 7 (1) of Act CLIV of 1997 on Health (hereinafter: HA) the text “without discrimination” shall be replaced by “complying with the principle of equal treatment”, and Article 7 (4) shall be repealed.
- (2) In Article 9 (4) of the HA the text “negative discrimination” shall be replaced by “the violation of the principle of equal treatment”.
- (3) Article 30 (5) of the HA shall be replaced by the following:
“(5) The patient advocate shall pay special attention to representing the rights of patients at a disadvantage due to their age, physical or mental disability, health status or social situation and to complaints concerning the enforcement of the principle of equal treatment, and shall be authorized to represent the patient during official procedures aimed at establishing the violation of the principle.”

ARTICLE 55

Article 25 (6) of Act XXVI of 1998 on the rights of and equal opportunities for disabled persons shall be replaced by the following:
“(6) The National Disability Council and the national interest representation organizations may also initiate procedures against those violating the rights of disabled persons granted by law and with a view to enforcing the rights of disabled persons if the infringement concerns a larger group of people that cannot be precisely defined.”

ARTICLE 56

- (1) Article 1 (1) of Act XLIII of 1999 on cemeteries and burials (CBA) shall be replaced by the following:
“(1) Every person is entitled to a proper and dignified funeral and to the paying of respects at the deceased’s resting place.”
- (2) Article 17 (2) of the CBA shall be replaced by the following:
“(2) The operator shall observe the principle of equal treatment in respect of funeral service providers.”

ARTICLE 57

- (1) In Article 90 (1) of Act LXXVI of 1999 on copyrights (hereinafter: CRA) the text “also enforced without unjustified discrimination” shall be replaced by “complying with the principle of equal treatment”.
- (2) Article 90 (4) of the CRA shall be replaced by the following:
“(4) The principle of equal treatment shall be observed in the application of the tariff rates.”

ARTICLE 58

The last sentence of Article 46 (2) of Act CXLI of 2000 on new co-operatives shall be repealed, and Article 51 shall be supplemented by the following paragraph (3):
“(3) The principle of equal treatment shall be observed when admitting members and laying down the rights and obligations thereof.”

ARTICLE 59

Article 6 and the previous subtitle of Act XCV of 2001 on the legal status of the professional and contracted military personnel shall be replaced by the following:
“Principle of equal treatment
Article 6 The principle of equal treatment shall be observed in respect of the service relationship.”

ARTICLE 60

- (1) In the Preamble of Act CX of 2001 on electricity (hereinafter: EA) the text “without negative discrimination” shall be replaced by “in compliance with the principle of equal treatment”.
- (2) In Article 33 (1) of the EA the text “without applying negative discrimination” shall be replaced by “without prejudice to the principle of equal treatment”.
- (3) In Article 43 (3) of the EA the text “shall not apply negative discrimination” shall be replaced by “shall observe the principle of equal treatment”.
- (4) Article 50 (2) of the EA shall be replaced by the following:
“(2) The principle of equal treatment shall be observed during the approval procedure.”

ARTICLE 61

- (1) In Article 69 (3) of Act CXX of 2001 on the capital market (CMA) the text “contains any negative discrimination or would result in such discrimination” shall be replaced by “violates the principle of equal treatment”.
- (2) In Article 74 (4) of the CMA the text “make a negative discrimination” shall be replaced by “to violate the principle of equal treatment”.
- (3) The second sentence of Article 225 (2) of the CMA shall be replaced by the following:
“The Regulation must not violate the principle of equal treatment in respect of the individual members of the Fund and must not jeopardize the safe management of the Fund.”
- (4) Article 317 (5) of the CMA shall be replaced by the following:
“(5) The stock exchange regulations shall observe the principle of equal treatment in terms of individual traders and issuers.”
- (5) Article 345 (4) of the CMA shall be replaced by the following:
“(4) The business rules and regulations shall ensure that the principle of equal treatment is observed in respect of the clients of the organization operating as a clearing house.”

ARTICLE 62

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

CHAPTER VI *CLOSING PROVISIONS*

ARTICLE 63

- (1) With the exception set out in Paragraph (2)–(3), this Act shall come into force on the 30th day following its promulgation.
- (2) Article 13–Article 17, the text “, and the Authority” in Article 18 (1), and Article 20 (1) b) shall come into force on 1 January 2005.
- (3) Article 31–34 shall come into force on 1 January 2004.
- (4) The Government shall present the National Equal Opportunities Program for the first time to the Parliament in sufficient time so that it can come into force on 1 January 2005.
- (5) The equal opportunities plans under Article 36 of this Act shall be accepted for the first time by 31 December 2004 at the latest.

ARTICLE 64

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

ARTICLE 65

This Act contains regulation in harmony with the provisions concerning law approximation of the Europe Agreement establishing an association between the European Communities and their Member States on the one part and the Republic of Hungary on the other part, signed in Brussels on 16 December 1991 and promulgated by in Act I of 1994, compatible with the following legal acts of the European Union:

- a) Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions and Council Directive 2002/73/EC amending the above Directive,
- b) Council Directive 79/7/EEC on the progressive implementation of the principle of equal treatment for men and women in matters of social security,
- c) Council Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes,
- d) Council Directive 86/613/EEC on the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity and on the protection of self-employed women during pregnancy and motherhood,
- e) Council Directive 97/80/EC on the burden of proof in cases of discrimination based on sex,
- f) Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin,
- g) Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation.

GOVERNMENT
OF THE REPUBLIC OF HUNGARY
THE DRAFT RESOLUTION
OF THE PARLIAMENT NO. H/18907
ON THE NEW
NATIONAL DISABILITY PROGRAM

Presented by: Dr. Kinga Göncz

*Minister for Youth, Family,
Social Affairs and Equal Opportunities*



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Budapest, December, 2005

on the new National Disability Program

1. Based upon Section 26 of Act XXVI of 1998 on the rights and equal opportunities of people with disabilities, the Parliament discussed and adopted the National Disability Program for 2007–2013, which is an annex to the Parliament Resolution, and was prepared in the course of the revision of Parliament Resolution No. 100/1999 (XII. 10.) (Program, hereinafter). The Program builds upon the contents of Parliament Resolution No. 6/2005. (II. 25.) on the adoption of the 2001–2003 implementation of the National Disability Program and the related Government actions, it is in harmony with international conventions and contains compatible measures with the legal acts of the European Union's institutions.
2. Parliament requests the Government to work out – in co-operation with the national advocacy organizations of people with disabilities, and with the National Disability Council – the medium term implementation plan of the Program for 2007–2010, including the definition of tasks, naming people in charge and identifying the necessary resources by 31 August, 2006, the latest.
3. The Government shall prepare a Report for Parliament every two years on the progress of the implementation of the Program. The first Report is due on 31 March, 2008.
4. Parliament requests the Government that while preparing plans and programs related to European Union membership, take the basic principles and objectives of the Program into account, with special regard to the 2nd Europe Plan of Hungary, the National Employment Action Plan, the Memorandum on Social Inclusion, and the National Action Plan prepared on the basis of the European Union Strategy for Social Inclusion.
5. Parliament requests the Government to support the establishment and operation of the Monitoring Committee facilitating and controlling the implementation of the Program by drawing in the national advocacy organizations of people with disabilities and the non-governmental organizations providing services to people with disabilities, as well as employers employing people with disabilities, and the Council of Local Government Associations.
6. With the present Resolution, the Parliament requests a) the national advocacy organizations of people with disabilities and the non-governmental organizations providing services to people with disabilities, the local governments, government–mental and local governmental institutions, as well as employers to do everything possible for the implementation of the objectives defined in the Program,
 - a) the managers and staff of the mass communication organizations to take part in communicating the Program and in promoting positive changes in the attitudes of the members of society related to people with disabilities,
 - b) people with disabilities to lead an active role in guaranteeing their own rights – while also complying with their responsibilities – and also to participate actively in issues related to their lives in community, local, sub-regional, county, regional and national levels.
7. Parliament requests the Minister responsible for equal opportunities to make sure that the present Parliament Resolution and the Program included in its annex be communicated in such a way that takes the different communication needs of various groups of people with disabilities into account; for people with visual disabilities using the Braille form, making the Ministry home page accessi-

ble for blind and short sighted people , for persons with hearing disabilities in a video-file form with sign language interpretation, for people with intellectual disabilities and for people living with autism using an easy-to-understand language.

8. The present Resolution shall enter into force on the day it is announced and published. Parliament Resolution No. 100/1999 (XII.10.) on National Disability Program shall at the same time expire.

National Disability Program 2007–2013

Chapter I: Basic principles of the Program

The basic *principles of the Program are of horizontal character*; it is the responsibility of all concerned parties to keep them in mind and make them prevail in the course of implementing the Program.

The *principle of prevention* says that society must do everything to prevent accidents and diseases causing disability. Behavior and action in connection with people with disabilities must be such that in the spirit of prevention they do not deteriorate the condition of disability.

The chances of social integration of people with disabilities and especially the quality of their lives are determined by the *general social situation of their families*. It is especially important whether the parents and other family members have a chance at all of getting a job while they are raising and taking care of children with disabilities and supporting adults with disabilities. This does have an impact on the access to services and technical aids necessary for equalizing opportunities. Consequently, an important basic principle of the Program is that it includes actions related not only to people with disabilities, but also to their family members.

People with disabilities are a heterogeneous group whose members – people with visual disabilities, with hearing disabilities, with physical disabilities, with intellectual disabilities, with communication difficulties and those living with autism, or even people living with severe, multiple disabilities – have different needs. Women with disabilities and people of ethnic minorities living with disabilities can be hit by multiple discrimination. *Therefore an important basic principle is that the different measures must be planned on the basis of individual needs.*

Based on *the principle of need and the increased protection of the most vulnerable ones*, the differentiation in the measures and tasks necessary to create equal opportunities and in the system of services and support provided to people with disabilities must be guaranteed in order to keep social disadvantages at a minimum. Thus the Program helps in creating social cohesion and is capable of promoting social integration of people with disabilities by correcting social inequalities.

People with disabilities have the same rights and responsibilities – being equal members of society and of the local community – as any other citizens. Yet when carrying out a task or action, or taking part in a daily life situation – in other words exercising a right – due to the injury/ies of physical functions and/or physical structures certain measures are needed in order to equalize opportunities, in other words to eliminate the hindrance of action or the restriction of participation. These social obstacles and restrictions result in discrimination and social exclusion. *The Program is built upon the principle of equalizing opportunities.*

The principles of prohibition of negative discrimination and the responsibility of favourable treatment are principles that must be observed in all areas of society. No negative discrimination is allowed against people with disabilities, no treatment that is prejudicial to them and no exclusion are allowed, they must not be restricted in their access to public goods that are easily accessible to other people due to their disabilities. Since people with disabilities can exercise their rights, which they are equally entitled to just like anyone else, less because of their condition, it is fair and justified to provide them with certain advantages.

The principle of protecting personal rights, and the protection of the (special) rights of people with disabilities that they are entitled to, as well as the principle of supported decision-making must prevail in all general rules and regulations (e.g. guardianship, caretaking). The principle of supported decision-making, as against decisions made by professionals instead of people with disabilities, means that people with disabilities are supported in their own decision-making depending on their individual capacity to some or to full extent, covering all possibilities. In order to make use of this principle, the Government must help people with disabilities by providing the necessary resources to create a network for supported decision-making. Besides the "Program elements" necessary for exercising rights, the Program must be monitored, rights must be familiarized and explained, legal protection techniques must be pro-moted, and institutions protecting rights must be enhanced.

People with disabilities are not subjects of charity, but they are the owners of rights. People with disabilities are not ill; rather they are individuals assuming responsibility for their own lives. They are not dependants but consumers with working capacities. They are people who do not wish others to make decisions for them on their lives, because they are capable of doing so themselves. *Accordingly, all efforts should be made to support people with disabilities taking part in identifying and then implementing measures.* According to the principle of self-determination, people with disabilities can, within the frame of their capacities and opportunities, freely decide on their lives. Independence covers self-determination on personal movement, time, possession, and one's own body. *For the sake of self-determination and for the respect for human dignity* the principle must be observed when granting any subsidies and support, so that people with disabilities can decide on their own objectives in their lives, on the way they want to reach them, and on their human and moral values. The support given must not strip people with disabilities of all the things they can do by themselves, and can independently achieve.

The principle of subsidiary provides that people with disabilities have access to services they need at their places of residence or as close to this place as possible, and decisions and measures related to people with disabilities be made and implemented locally.

The principle of integration supposes that people with disabilities can make and maintain contacts with other people and with the widest range of social and economic institutions in their everyday lives (e.g. in education, social care and child welfare, employment, sport, culture). Providing the opportunities for contact includes making members of the society sensitive (social inclusion), adjusting specific conditions necessary for changing place (making public transport and built environment accessible), the use of the necessary communication devices and technology (e.g. accessible web pages for people with visual disabilities, sign language interpretation, easy-to-understand language and pictograms). Besides traditional, personal type of contacts, the principle of integration can be attained via modern technology (Internet access, e-mail, mobile/cellular telephones), and also modern methods (tele-work, tele-education). Special attention is to be paid and support given so that people with disabilities can maintain regular contact with their family members, especially when using health, education, social and child protection services. It is relevant; especially for the sake of promoting social integration that the use of such supports or subsidies results in building and maintaining a wider range of and more intense network. All action leading to cutting off social contacts in the community and to exclusion should be avoided, and for good cause it should be even sanctioned. All measures and professional principles that result in unfair segregation should be reviewed.

The principle of normalization makes it possible for people with disabilities to access and reach life patterns and everyday life conditions, which are equal to those of other members of society. Therefore conditions must be created in such a way that they comply, to the most complete extent possible, with the usual conditions and life styles of society at large.

According to the principle of rehabilitation people with disabilities should be supported to become capable of making real efforts in order to improve their own conditions, or to stop and to slow down deterioration in their condition. The principle of rehabilitation supposes the co-operation of people with disabilities with the corresponding public service institutions. This way they have the opportunity to influence the specific goals and methods of rehabilitation, and their co-operation as an agreement between two equal parties should be laid down within the frame of written rehabilitation contracts or personal rehabilitation plans that include mutual guarantees.

The principle of equal access means that people with disabilities be able to use public services in the same quality and quantity as the majority of society. For this purpose, public services must be organized in such a way that takes the different needs of various groups of people with disabilities into consideration.

The principle of Universal Design means that the world that surrounds us (built and artificial environment) must not necessarily be transformed according to the needs of people with disabilities, but they must be planned from start so that they are accessible and usable for people with disabilities as well.

The principle of “Nothing About Us Without Us” means that people with disabilities, in their own right or via their elected representatives, and in case of people with intellectual disabilities, people living with autism and people with severe, multiple disabilities in their own right or via their parents, participate in the preparations, making and implementation of decisions that fundamentally influence their lives. This is especially applicable to the governmental and local governmental legislative processes, and to the allocation of development funds earmarked for improving the living conditions of people with disabilities.

Chapter II: Presentation of the social situation of people with disabilities

1. Demographic data on people with disabilities

The number of people with disabilities was assessed at the 1990 and at the 2001 censuses; according to the latter one there were 577 thousand people with disabilities, which is 5.7% of the population. This data – even according to KSH, the Central Statistical Office – underestimates the number of people with disabilities, thus we can estimate their numbers at around 600 thousand.

A typical feature of the demographic composition of people with disabilities is that there is a large number of elderly people among them since a significant proportion of people with disabilities have not been disabled from birth, but their disabilities were caused by diseases or accidents during their life. Among people with disabilities, the proportion of those older than 60 years is 44.8%, twice as much as the proportion of the similar age group within the whole population. Disability is caused in most cases by some sort of long term disease (53.8%). 17% of people with disabilities have been suffering from disabilities since birth.

We can see from the categories of the 2001 census that people with physical disabilities represent the largest proportion (43.6%) within the disabled population, while the proportion of people with intellectual disabilities is approximately 10%, and the proportion of people with visual disabilities is 14.4%. The proportion of people with other disabilities increased from 6.7% (data of the 1990 census) to 21.6%. 10% of people with disabilities suffer from hearing disabilities and communication disabilities.

22.7% of people with disabilities live alone, 57% live with another person (but with a non-disabled person), another 10.5% live together with three or more people, and nearly 8% of them were accommodated in an institution.

19% of families with people with disabilities have children with disabilities. This index in case of two-parent families is 15%, in case of single parents it is 45%. Families in which both or all three children live with disabilities are in an especially difficult situation. 2.9% and 0.3% of families caring for children with disabilities belong to this group, respectively.

The regional distribution of people with disabilities and people without disabilities differs significantly. The ratio of people with disabilities in the Southern Great Plain and in the Northern Hungary Regions is higher. According to distribution per settlement data, higher number of people with disabilities live in villages (40.3%) and fewer live in the capital, in Budapest (14.2%), and in other towns and cities (29.6%), than those without any disabilities, 17.6% of whom live in Budapest, 47.2% live in other towns and cities, while only some 35.2% live in villages.

2. Education level of people with disabilities

According to 2001 census data 13.2% of people with disabilities have studied in some special elementary school. People with physical disabilities usually have higher qualifications than elementary education, while fewer people with sensorial disabilities gain qualifications at higher level than elementary education, and students with intellectual disabilities are practically totally excluded from higher education. Students with learning difficulties (people with mild intellectual disability) can – according to 2004/2005 data – study in 126 special vocational schools; their number is 8369. This number is doubled comparing to 1991. The education level of people with disabilities is usually lower on the whole than that of the population at large. According to the census, 32% of people with disabilities do not finish elementary school, and only 39% of them have elementary education. This is a significant, 9% increase, yet it is left far behind by those who live without any disabilities. 25% of them have vocational qualifications and/or matriculation, while only 5% of people with disabilities graduated from universities or colleges.

3. Employment data on people with disabilities

The employment data of people with disabilities were included in the 2001 census. The growing integrated and protected presence of people with disabilities on the labor market is vital for a most complete social integration possible.

According to the 2001 census, the employment rate of people with disabilities was 9% as compared to 16.6% in 1990. Parallel to that the 0.7% unemployment rate of people with disabilities increased “only” to 2%. This is explained by the fact that such people became inactive earners (from 57.5% to 76.7%).

In 2000, 2001, 2002 and 2003, one third of those concerned managed to get placement on the labor market.

4. Data on social care

The social care system provides people with disabilities with three special financial and four special personal types of care and support to. As for the number of people with disabilities receiving financial and personal care, it is nearly 410 thousand, though many receive double or multiple support.

The largest group is the one receiving financial support. According to September 2005 data, 8 thousand people receive annuity for blind people – that is given to blind people over the age of 18 who are not cared for in institutions. Increased amount of family allowance – given to people with disabilities, children with long term and chronic diseases and young adults with severe disabilities – is provided for 122 thousand people. People with severe physical disabilities who cannot use public transportation receive transportation support. The number of them is roughly 270 thousand. The new financial form of support introduced in 2001 called the disability allowance was given to 100 thousand people according to September, 2005 data.

As for the specialized personal social care, the local governments provide day care in 95 institutions for 2299 people. The number of people receiving temporary accommodation and the number of those placed in welfare care homes is very small. 16 thousand people receive long term care or care in caring-nursing homes, and 5 thousand people are accommodated in rehabilitation institutions. Most of the boarding homes provide care for people with severe disabilities, and the rehabilitation institutions provide care mostly for people with physical and intellectual disabilities and also for blind people.

5. Social exclusion

Social exclusion is a consequence of the low education level, as well as the low employment rate of people with disabilities. Integration is made even more difficult by the fact that rehabilitation services are accessible only in larger settlements and the purchase of aids for independent life is impossible just from one's own resources.

6. Equal access

Based on 2004 data, 13.3% of all public buildings maintained and run by local governments were accessible. As for public buildings run by ministries, this proportion differs depending on how many public buildings are run by the given portfolio; this ratio is 60-70% as an average.

Chapter III: The objectives of the National Disability Program

1. Rehabilitation related objectives

1.1. PREVENTION OF THE DISABLED CONDITION AND ITS DETERIORATION

Linked with the National Public Health Program health awareness programs are needed whose special scenes or venues can be the family, health and education institutions, as well as the employment. Institutions that help conscious family planning and provide life-style counseling (health, education, social and child protection) should be strengthened and be made accessible, and also should be operated in a system.

Supporting further researches is essential for prevention in the area of reducing the risk of congenital disabilities and to reduce the number of premature births. It is necessary to expand prenatal and post-natal screenings, increase the special health interventions through which the extent of disabilities can be reduced.

The system of compulsory screenings should be reviewed, and if necessary, proposal is to be proposed to up-date them; related to this, the possibility of organizing the health, social, mental health, educational and occupational rehabilitation after medical screening into a system should also be examined.

Related to the National Labour Safety Program such legal measures are to be taken and programs are to be started that prevent workplace accidents, Health and Safety on workplace and labor safety conditions are to be strengthened. The legal and financial possibilities to create and introduce an accident insurance system based on independent, modern risk management should be examined.

1.2. DEFINITION OF DISABILITY, CLASSIFICATION OF DISABILITIES

WHO issued the document called International Classification of Functioning, Disability and Health, (ICF) in 2001, which is the most up-to-date classification system. The most significant message of ICF is that limited human physical activity and hindered participation in society can derive equally from health issues, and also from environmental and personal factors. In order to place this classification on new foundations, the legal conditions for the practical application of ICF as an interdisciplinary, complex classification system is to be worked out, and it is also important to ensure training possibilities for professionals and the required physical conditions of the classification procedure.

Whenever speaking of adult people with disabilities, the meaning of the definition of disability also covers people with changed working capacities.

1.3. LAYING THE FOUNDATIONS FOR COMPLEX REHABILITATION

The legal definition of disability in Hungary today is not consistent, therefore the range of people who receive care/support is also different, often unfairly so. Nevertheless, several assessment committees function for conceding eligibility to different financial and in kind educational, health, child protection, employment care/support, and their professional opinions are often not interchangeable even within the same sector. This puts unfair burden on those concerned and on the fund providers as well. Therefore the chance to unify and simplify the assessment procedures is to be revised.

In order to provide rehabilitation as defined in Section 4 point b) and Section 19 of Act XXVI of 1998 on the rights and equal opportunities of people with disabilities – to be implemented in a complex manner as a system, providing financial and personal services – the possibility of introducing a disability identification card should be taken into consideration. Also the possibility to set up an expert committee responsible for the preparation of the complex rehabilitation plan, for the co-ordination of the complex rehabilitation and for the measuring of the efficiency of the plan must be examined.

2. Action to be taken to induce a positive change in the attitude of society towards people with disabilities

2.1. ON THE REASONS FOR THE ATTITUDE OF SOCIAL EXCLUSION

In spite of the 2001 census and research done by the National Disability Council and non-governmental organizations in recent years, we have few data on the numbers and living conditions of people with disabilities. In order to have a clearer picture and to make services more planable, research projects, surveys and analysis are to be launched and supported, with special attention to the number of people with disabilities and to programs adjusted to their socially justified requirements.

People with disabilities were invisible citizens of this country for a long time. Consequently, a number of prejudices evolved and mistaken ideas got fixed. The media, the national advocacy organizations of people with disabilities, as well as non-governmental organizations providing services to people with disabilities have the primary role in dispersing such prejudices and in making people familiar with people with disabilities. Support is to be provided to these organizations in programs that help to shape public opinion (events for personal meetings, publications to convey information indirectly, and training programs for people of different groups of professions).

People with disabilities themselves play a very important role in shaping public opinion and social awareness, and in giving personal and positive examples. Accordingly, the Independent Living Movement of people with disabilities must be supported, just as the activities of people with disabilities who are talented in sports, in culture, or any other areas, their education into being intellectuals, their college or university studies are to be supported.

2.2. ON THE REASONS OF SOCIAL EXCLUSION DUE TO LACK OF INFORMATION

At all levels of education (from nursery schools through elementary and secondary schools all the way to higher educational institutions and adult education) information must be provided on disabilities as corresponds to the given age group.

Preparation and training for teaching children and adults with disabilities should be and integral part of the profession of teachers. In order to spread the different forms of integrated education, special curriculum programs are to be developed in higher education institutions and in accredited further training forms, through which teachers can get experience in communicating with children with disabilities (“using sign language”, Braille writing, augmentative communication), and which prepare teachers to overcome behavioral and learning difficulties of children with disabilities even in a regular elementary school environment. Training and further training of teachers for such special requirements is to be made continuous.

Disability issues should appear in the curricula of basic or medium level further training courses of experts of social affairs, child protection, health, occupational and labor affairs, legal, administration, internal affairs, IT and transport, and experts should learn the techniques of special communication with people with disabilities.

2.3. ON THE INSTITUTIONAL REASONS FOR SOCIAL EXCLUSION

We can be confident of changing of social attitudes if people with disabilities can live together with the members of the majority in their everyday lives. Therefore all measures taken must serve the purpose of integration, with special attention to education, social and child protection care, employment,

culture, sport and tourism. It is important that in all systems of education (public education, vocational training, higher education, and adult education) spreading of the integrated forms of education continue, and the number of education institutions with facilities needed for the special education of children and adults with disabilities increase.

Often children's home and boarding social institutions (rehabilitation institutions, small group homes, caring-nursing homes for people with disabilities) providing long term care and dormitories (students' homes) are the venues for the lives of people with disabilities. Thus people with disabilities do not live with their own families in normal conditions, but they live in homogeneous groups with their disabled fellows. Often the reason is that public education, child protection institutions and social services providing primary care for children with disabilities are missing from where such families live. The fact that there are historically evolved huge boarding institutions hinders the establishment of such facilities, and professional as well as financial interests are attached to maintain the current situation. Also financial conditions and even often professional conditions are still missing to provide primary care that is cheaper, integrative and serves prevention.

With crèche, nursery school and elementary school integration, efforts are to be made towards making sure that children with disabilities under the age of 10 receive the necessary care at the place where they live and thus they are not forced to go to a boarding school.

Regarding child protection, health and special education areas, the legal, professional and physical conditions are to be worked out so that children with disabilities do not fall into child protection care just because of their disabilities, and children with disabilities cared for in children's homes be placed in integrated homes, or if it is impossible, in group homes which are not bigger than 12-40 people.

The number of places in small group homes must be increased, and the possibility must be studied whether small group homes are accessible for all groups of people with disabilities. The regulations for small group home care for people with disabilities must be reviewed, which includes the conditions for access and the professional contents of the services provided. Attention is to be paid that the new form of care be spread nationwide.

With regard to the written and unwritten norms of the European Union and to the efforts of the European organizations of people with intellectual disabilities and their families (Inclusion Europe, European Disability Forum), the legal, professional, physical and financial conditions are to be studied so that just like in case of the 1997 reform of the child protection institutions, the size of boarding institutions be limited to a maximum of 40 people. Special programs are to be drawn up to break down and transform institutions providing long term boarding (caring-nursing institutions and rehabilitation homes) and to provide alternative forms of living, with the participation of the county governments, national advocacy organizations and the non-governmental organizations providing services for people with disabilities. Such program is to cover – taking the principles outlined in Chapter I into consideration – the re-utilization of buildings (e.g.: as complex rehabilitation institutions), the necessary changes (reconstruction of buildings), the improvement and expansion of services, and the modernization of the methods of care provided.

In order to provide up-to-date and professional care, human resources are to be developed by increasing the number of specialized professionals (special education teachers, social workers, rehabilitation experts), and by increasing their levels of qualification.

In order to provide up-to-date care it is also important to take effective measures to provide customer protection, to inform people with disabilities using certain services, and to fund only quality services based on measuring the supply of customer demands.

Rehabilitation institutions of people with disabilities operate on the basis of Act III. of 1993 on social administration and social care are to be transformed in such a way that they truly provide complex (mental health, training, social and employment affairs) rehabilitation for a maximum of 5 years – with or without boarding – and as a result, people using such services become capable of living independently in their own homes or in small group homes, and work in the open labor market or in sheltered workshops.

Non-profit organizations providing high quality services that can react rapidly to needs play an increasingly important role in the complex rehabilitation of people with disabilities, and especially in

supporting an independent way of living and providing day care. Possibilities how such organizations can provide long term, reliable services is to be reviewed. All legal barriers in developing of complex services should be broken down.

Most of the children with disabilities study in segregated special education institutions. Enhancing the swapping between segregated and inclusive education institutions is to be an objective. In order to provide equal access, the education programs of majority elementary schools are to be supplemented with special measures which make the school activities of students with disabilities easier while setting the same requirements. An indicator system is to be developed in order to monitor integration.

3. Improving the quality of life of people with disabilities

The quality of life of families raising children with disabilities or caring for adults with disabilities is determined basically by family living conditions. These are the following:

3.1. THE PRIMARY VENUE FOR FAMILY LIFE IS THE HOME OF THE FAMILY

Certain groups of people with disabilities – especially those with physical disabilities, visual and hearing disabilities, people with severe, multiple disabilities or those who live with autism – can live their lives independently only in especially transformed homes equipped with certain facilities (made accessible). All legislations and financing systems are to be reviewed that concern construction of homes, (“principle of Universal Design”), making them accessible, and equipping homes with warning systems to inform the organizations, providing assistance and help.

Parents of children (and often of adults) with disabilities often stay at home and care for the family member with disabilities – partly because of the lack of day or boarding care providing the necessary care and services – even if they have to leave the labor market and thus suffer loss of income. This results in the deterioration of quality of life of the entire family however it is a cheaper solution for the state (as compared to care in an institution).

In order to increase the social recognition of caring for a family member with disabilities at home, the system of the nursing care fee is to be continued to develop, taking the sovereignty and nursing care needs of the people with disabilities into consideration in such a way that those involved be able to freely decide for whom and how to use this fee and what kind of care and help (care, nursing) they would take. The possibility of increasing the nursing care fee in a differentiated way is also to be reviewed.

3.2. EMPLOYMENT OF FAMILY BREADWINNERS

There are parents who provide home care and nursing, as mentioned above, because of the lack of boarding institutions and services, and have been doing it for years or even decades. In case day care or even boarding (small group home) care was provided, these parents would return to the labor market. However, “long term unemployment” makes it very difficult for them to get a job. Therefore vocational rehabilitation services are to be provided to them as well.

Education level has a basic impact on possible employment, on the income that can be earned, and thus the quality of life of the family. The education level of people with disabilities – based on 2001 census data – is 8 grades of the elementary school, or even less, in case of 70.4% of people with disabilities, while in case of non-disabled people is 49.5%. The ratio of people with college or university degrees within the disabled population is 5%, while this proportion among non-disabled people is 10.2%. Accordingly, access to adult education and higher education for people with disabilities must be improved, and thus their chances to get a job will also improve. This measure must also include increasing the number of adult education programs adapted to people with disabilities, training of teachers participating in adult education and higher education on disabilities and special education, and providing physical and infrastructural conditions necessary for education.

Opportunities provided by an information society should be advertised more widely among the family breadwinners, just as the use of information and communication technologies, through which they might even learn a new profession and get a job.

3.3. FAMILY INCOMES COVERING, AMONG OTHERS, THE EXTRA EXPENSES INCURRING FROM DISABILITIES

Disadvantages determining the quality of life of the family often get multiplied in case of people with disabilities.

The rehabilitation and the independent living of people with disabilities often cause extra financial burden to the family. Such extra costs incur when they use rehabilitation services, when they purchase technical aids for independent living, when they make their home accessible, when they have a car transformed, and when they use public transport in case the services needed are not available locally.

The introduction of the disability allowance reflected the recognition of such extra expenditures. However, other disability related care types need up-dating. It would be appropriate to oversee the different forms of support by disability groups, as well as the possibility to continue to develop them in a well co-ordinated manner.

The district nurse network, the family (pediatric) practitioner, the child welfare services, the family help centers, the expert and rehabilitation committees and the educational guidance centers in case of disability is interpreted as defined by the ICF could play a very important role in preventing and handling family problems and in recognizing the suspicion of disability. Support services, home help, home meals, and the village caretaker network could be of help in everyday life. The staff of such institutions must be provided with sufficient knowledge on disabilities, they are to be given trainings and also means of communication and physical access are to be provided to these services.

3.4. TECHNICAL AIDS FOR INDEPENDENT LIVING

People with disabilities need to use adaptive technologies, technical aids and/or personal help in order to lead an independent life. The purchase and possession of such aids that support independent living is a basic precondition for the chance to participate in society and for the principle of self-determination to prevail. The range of technical aids is much wider than just medical ones. Besides aids that promote mobility, devices that replace vision by sound or by touching (e.g. speaking thermometer, the white cane), that help seeing (e.g. magnifiers), devices that replace hearing by giving light signals or vibration signals (e.g. light signals for doorbells and telephones) hearing aids (e.g.: radio receivers-transmitters), in case of deaf blind people vibrating aids replacing vision and hearing are also included among such devices. So are the adaptive technologies for people using alternative communication channels and communication helping devices (e.g. in case of people with hearing disabilities, mobile telephones capable of sending text messages, fax machines; in case of people with visual disabilities computers, in case of not speaking autistic people augmentative communication tools). The opportunity to support obtaining and renting teaching and learning aids to students needing special education is to be elaborated.

People with intellectual disabilities, people living with autism and people with severe multiple disabilities also need technical support, but in their case personal help is more prominent. The possibilities to support the development and use of aids that help them living independently are to be reviewed, as well as the possibilities to expand non-governmental organizations, governmental and church institutions providing personal help (e.g. support services, home help, baby sitting), and to co-ordinate their activities. The possibility to apply ISO 9999: 1992 pattern on "Technical aids for people with disabilities" and the German DIN 18030 pattern in Hungary is also to be considered.

The medical aids supply is to be reviewed, just as the conditions for their sale and purchase is, and also what solutions can provide the best care for people with disabilities considering increased use of such medical aids. Also the possibilities of renting and re-using medical aids are to be elaborated.

3.5. ON SERVICES ENCOURAGING KEEPING PEOPLE IN FAMILY

Public education, social and child protection primary care services provide a number of opportunities for day care of children. Such are, for example, the nursery school (kindergarten), the school day care centre, the crèche, the play houses, the family day care centers, and the day institutions for people with disabilities. Only some of these are available for children with disabilities. As for adults with dis-

abilities, only the day care centre for people with disabilities is available. The network providing day care must be enlarged, and the integrated admission of children with disabilities must be promoted.

We must provide the possibility to parents caring for children and adults with disabilities – especially for people with intellectual disabilities, with autism and with severe, multiple disabilities – to get occasional outside help. The possibility to create special services and to expand the tasks of the ones that already exist is to be examined.

IS mentors (IS = Information Society) help not only in keeping people in family, but also help in accessing services in general. The employment of IS mentors who can help people with disabilities with the right advice and counseling in utilizing info-communication tools and the opportunities offered by them is to be supported. Such opportunity is, for example, electronic administration, information gathering, exercising one's rights and working.

3.6. ACCESS TO COMPLEX REHABILITATION SERVICES FOR PEOPLE WITH DISABILITIES

According to the 2001 census, 17% of people with disabilities have had disabilities since birth, 66.5% of them have disabilities due to accident or disease. 40.3% of people with disabilities live in small or larger villages.

The institutions of complex rehabilitation are used mostly by the relatively smaller number of people with congenital disabilities for the sake of successful school education and in the hope of getting a job, and also in order to restore their working capacity it is used by those larger number of people who became disabled due to accident or disease, and are over the age of 40. In case of both groups it is true that the specialized institutions of rehabilitation (special education in the public education system, child protection special services, rehabilitation health and social institutions, rehabilitation groups of the labor centers, etc.) are available only in larger cities. Therefore their use requires significant efforts in time and money. The professional, legal and financial possibilities to bring the rehabilitation services providing adequate help closer to the people who use them are to be investigated. The system of transport allowances and the transport services must be continued to develop (including support services, purchasing school buses, and the network of village caretakers, taxi services, and transport by ambulance).

The system of individual transport adopted to the special needs of people with disabilities is to be worked out, especially for people with physical disabilities and autism, or any other disability that make the use of public transport impossible. Social primary care services in the place of residence and in the vicinity are to be expanded and the independent living of people with disabilities need to be enhanced by providing continuous services to them. First of all direct help in the place of residence is to be provided to people with disabilities and to their families, so that only in very special cases would board institution be necessary to care for such people.

3.7. ACCESS TO SPORTS, CULTURAL GOODS AND TOURIST SERVICES FOR FAMILY RECREATION

In case of people with disabilities, sport is also used for rehabilitation purposes. Therefore access to sport and wellness facilities is to be provided.

With regard to the European Union Directives and the development of technology, such programs are to be launched that help access of various groups of people with disabilities to cultural goods. It means making cultural public institutions (theatres, cinemas, etc.) physically and communication-wise accessible, and making the exhibited objects of museums accessible for example to people with visual and hearing disabilities. Recording the objects on digital data carriers and their presentation on the Internet is also acceptable.

Support must be given to amateur and professional artists with disabilities, to their associations and artistic societies, whose purpose is, among others, to alter public opinion. With consideration of the principle of integration, cultural – especially artistic and educational – events should be supported where the performers make up an integrated group, or where a group of people with disabilities perform in front of the general public.

Going on holiday is a general human recreational need, thus it is important for people with disabilities as well. Holiday-making is to be subsidized on social bases, deciding what measures are needed to make sure that the services provided by holiday organizers (travel agencies, accommodation providers, program organizers, tourist home pages, etc.) be accessible to groups of people with disabilities with different needs.

In accordance with the provisions of Act XXVI of 1998 on the rights and equal opportunities of people with disabilities, sport, cultural and other community purpose facilities must be made accessible to people with disabilities. Tourist places, tourist centers and services must be made accessible.

It is necessary to help people with disabilities to preserve their health, to fulfill themselves, to experience success and to participate actively in community life. Programs should be launched that support people with disabilities in active recreation (exercise, fine arts, drama groups, etc.) sport and cultural activities, with special regard to support organizing and taking part in national and international sport activities as well as the purchase of special sporting aids.

The following need to be done in order to create the background for sport medical services:

- a) the currently working sport medical services must be made suitable for providing such services to people with disabilities;
- b) sport medical certificate should be made compulsory for active competing;
- c) Joining anti-doping and anti-drug programs.

In the course of training sport professionals, training of experts with disabilities and the development of the training of non-disabled experts must be given more attention so that with the knowledge required they can be capable of handling people with disabilities according to their special needs. The following tasks need to be solved for this purpose:

- a) sport for people with disabilities must be part of the curriculum for training teachers and coaches;
- b) the role of sport and sport rehabilitation must be highlighted in institutions where teachers and special educators being trained;
- c) experts need to undergo special further training courses;
- d) in case of analogue sports, experts should be trained together (e.g. volleyball, sitting volleyball), and in case of special sports, the training of experts is to be solved (e.g.: goal-ball, torr-ball).

It is important to designate a centre, made it accessible and get it transformed especially, a centre where sport camps, professional further training courses and competitions can be organized and that could serve as a daily venue for mass, competitive and adventure sports.

In order to guarantee equal opportunities for people with disabilities in culture:

- a) the development of cultural heritage sites (especially sites of the UNESCO World Heritage) and the information boards of heritage monuments should be done in such a way that people with disabilities could also understand them;
- b) the development of activities that serve the aim of equal opportunities in cultural institutions and public collections should be supported;
- c) the use of community facilities and recreational institutions should be made available for the active recreation of people with disabilities;
- d) active and creative participation of people with disabilities in public cultural activities should be supported;
- e) Participation of disabled artists and artistic groups of disabled people in international and national cultural festivals, in exchange programs and guest performances should be encouraged;
- f) Research programs that help creating tools, processes and methods through which people with disabilities can get to know cultural values, participate in creative and amateur artistic movements and other community activities are to be launched.

4. Promoting the active participation of people with disabilities in social life

4.1. ADVOCACY, SELF-ADVOCACY AND THE ENFORCEMENT OF INTERESTS AT POLICY LEVEL

The Madrid Declaration which declares that “Non Discrimination plus Positive Action Results in Social Inclusion” was adopted in 2002 by the European Congress of Disability Affairs. The essence of it is the principle of “Nothing about Us without Us”.

The opportunity for the non-governmental side of the National Disability Council must be guaranteed in practice too, so that they can participate in the preparation of legislations, so that no draft bill, government decree or ministerial ordinance related directly to the lives of people with disabilities can be adopted without the National Disability Council having discussed on it first, and without the Government getting to know the written opinion of the Council in advance. The system of regional, county and city disability councils is to be worked out – in the latter case considering the number of people with disabilities live in place. A program is to be guaranteed for the national and local advocacy, self-advocacy and enforcement of the interests of people with disabilities.

The legal conditions are to be guaranteed so that based on the National Disability Program, regional, county and depending on the number of people with disabilities city disability programs be worked out in order to implement the Program.

The opportunity should be opened to people with disabilities to delegate their representatives into bodies dealing with the 2nd National Development Plan, with regional development plans and to the Board of the Foundation for Equal Opportunities of People with Disabilities.

The provisions of Act XXVI of 1998 on the rights and equal opportunities of people with disabilities and of Act CXXV of 2003 on promoting equal opportunities prohibit discrimination in various areas of life. The Authority for Equal Treatment, the institutional system of ombudsmen, and the Act LXXX of 2003 on legal assistance help in enforcing such rights. Programs are to be launched for the awareness of such possibilities.

4.2. EQUAL ACCESS

A precondition for active participation in social life is equal access to public services. Thus physical accessibility of public transport, public areas and public buildings is to be guaranteed, just as access to information and communication with regard to the special needs of people experiencing difficulties in understanding such information. A complex program is to be worked out to eliminate circumstances that create barriers to equal access.

In order to make the built environment accessible and to transform it according to the needs of people with disabilities, the review and revision of construction legislation and standards, just as the monitoring of the enforcement of such provisions in connection with public buildings are to be continued.

A priority in the transformation of the built environment should be making buildings owned, managed or run by central governmental organizations accessible. In case of organizations owned, managed or run by local governments, making institutions of health, social and labor affairs fully accessible, and getting information in them (information boards, sound signals, etc.) should be a priority. In case of pedagogic and education institutions efforts should be made to have at least one accessible nursery school and school for every sub-region which is in a reasonable distance from the place of residence.

Central governmental support is needed to make the means of public transport and passenger facilities physically accessible. In public parking, appropriate number of parking places and parking cards must be guaranteed.

Equal access to public services is to be promoted by the use of the most up-to-date information and communication technologies.

People with disabilities sometimes need special information, or specially drafted information for leading an independent life. Issuing and disseminating publications (in printed, electronic form or in a form done by using other technologies) that provide information for example on equal access (physical and communication accessibility) to public services need to be supported. Access to information must be

supported – also by making web pages accessible – in Braille format or electronically, by synthesized speech, by using sign language or subscription, in easy-to-understand format, or in pictograms. All information providing, consulting and counseling services and training need to be expanded through which people with disabilities can get information on services they can use, and which help them to meet their demands. At least one news program per day should be transmitted in every national television channel so that people with hearing disabilities could understand it – by using sign language or subscription – using the means of media regulation.

In case of every new investment project financed from government or EU funds it should be made compulsory that the building to be constructed, or the means of public transport, or any other tool of public benefit comply with accessibility requirements.

Earmarked budget funds should be allocated to help similar programs run by local governments and the non-governmental sector. In the scope of this effort and in order to promote the mobility and transport of people with disabilities, in co-ordination with the application scheme that has the same professional content as defined in the development plans of the Ministry of Economics and Transportation called “Develop Accessible Transport” since 2000 such plans are to be supported which leads to develop means and methods for accessible transport (e.g. recognition of open surface objects and structures by blind people, sound signals in traffic lights, rounded off pavements, street ramps, etc.).

Info-communication accessibility and the eradication of digital illiteracy of people with disabilities are also to be supported, so that public services offered via info-communication means and solutions become accessible. The necessary human and physical resources are to be provided for such purposes.

4.3. EMPLOYMENT ACTIVITIES

Active participation in society can be best achieved through employment. Therefore the legal, professional and physical barriers hindering the employment of people with disabilities must be eliminated and the interest of employers and employees with disabilities must be created. In order to promote work place integration, the means and conditions which help more and more people with disabilities to work together with non-disabled people should be widened. Special attention is to be given to create work opportunities to people with mental disabilities who are in the most disadvantaged situation. The regulation of protected workshops must be continued to develop, including funding adjusted to actual costs. Furthermore, the legal, professional, physical and financial conditions for the “therapeutic occupation” of people with severe disabilities must be worked out. The rehabilitation tasks of the employer also need to be regulated. The employability of all people with working capacity must be made possible by transforming the legal environment.

Employment plans should be drawn up to place people with disabilities into work. In the course of assessing changes in the working capacity and classifying the disability, all institutions participating in the procedure should use the same documentation.

The possibility to establish a support system that would create an interest – both in the employer and in the employee – in the preservation or transformation of the job of the employee who became disabled, or in the re-training of such an employee is to be examined. Re-regulation is necessary when people with disabilities become individual entrepreneurs, and also when services and allowances support atypical forms of employment. Part time job, tele-work and other forms of employment should be adopted, employers should be made interested, and the necessary social services should be provided so that families caring for children with disabilities could also get integrated into the labour market, or they could return to work. Local governments’ interests should also be generated so that inactivity is reduced. Grants should be provided – through application schemes – to promote services that help in the activities of people with disabilities.

In every county, access to vocational rehabilitation information and to vocational rehabilitation services helping in employment in the open labour market is to be guaranteed. Access to training, further training and re-training helping the employment of people with disabilities is to be guaranteed. Employers should be encouraged to give a chance to people with disabilities for promotion in their work place.

4.4. COMMUNICATION ACTIVITIES – ACTIVE PARTICIPATION

An independent communication strategy needs to be developed in order to implement and disseminate the Program, involving mass communication and other communication means that shape public opinion (written and electronic press, professional forums, the civil sector, the public administration and the local government sector). Publications or series of publications which present the best practices that work well in the different areas of life, and thus help towards positive action in society need to be issued. It is important that information on the measures taken in connection with people with disabilities in order to create equal opportunities for them appear in the media continuously, so that a positive shift in the attitude of society and acceptance can be achieved.

In order to have the basic principle of the Madrid Declaration – “Nothing about Us without Us” – prevail, safe, proportional operational conditions for national advocacy organizations of people with disabilities must be created. The national advocacy organizations of people with disabilities will have to be drawn into the preparation processes of decision-making, and also into the implementation of the different tasks.

5. Rehabilitation related objectives – II.

5.1. COMPLEX REHABILITATION AREAS – AS PROCESSES

The possibility of developing the early intervention of disabled children under 6 in public educational, social and child protection institutions into a professionally and financially unified system is to be examined.

New foundations are to be laid for the assessment of working capacities, and the rehabilitation system which follows such an assessment procedure, which is aimed at putting people to work, which is successful and complex, which have elements that build upon one another and complement to each other (health, employment, mental health, and social rehabilitation); the aim is that rehabilitation – during which rehabilitation annuity can be paid – would be followed by employment. The new assessment system of the change in working capacities is to be developed in such a way that focuses on the present level of working capacity, the trainability of the given person, his/her qualifications, occupation and age be all taken into account. A complex set of professional criteria needs to be worked out by transforming the medical assessment system, and these criteria would cover the status of the given individual, including the extent of the disability, the major directions of rehabilitation and the use of the remaining functions.

The institutional system for the immediate and complex rehabilitation of people becoming disabled due to accident or disease must be developed (e.g. basic rehabilitation of blind people).

The institution system providing complex rehabilitation (employment, social and pedagogic) to autistic children and especially to adults is to be developed, including the diagnosis of autism.

Equal access must be guaranteed to primary medical care and to secondary care to all people with disabilities. Therefore and in order to develop the public health system, purchase of tools and instruments necessary to provide equally accessible family (pediatric) medical care and dental care as well as specialised secondary care also to people with disabilities is to be supported, the possibility of easier access to health services (e.g.: screenings) is to be reviewed, and a program is to be drawn up for implementation.

In case of young people with disabilities who can be drawn into vocational training, training, rehabilitation and employment are to be co-ordinated.

Processes that harmonize the various forms of non-educational support with the conditions of training (e.g.: transport and personal help services, auxiliary aids helping training, etc.) for students with disabilities must be elaborated. It is important to define the role of educational institutions in starting the access process to these different forms of support, in providing certificates of eligibility to such care, and in providing such care (e.g.: renting certain aids for the duration of the training course).

Within mental health care, programs are to be launched that provide help to people with disabilities and to their families to accept the status of being disabled, and in case of secondary disability, help in creating a new way of life and in preparing for independent living; furthermore, help to professionals working with people with disabilities to prevent and manage burning out syndromes.

Chapter IV: Measures and institutions necessary to create equal opportunities

Implementing the Program means to carry out legislative tasks, to do developments in order to create the physical conditions, to elaborate and develop professional contents (concepts and strategies, methods and procedures), and to offer training and general awareness raising programs. The medium term Implementation Plan of the Program will have to be prepared

from 2007 to 2011 and then from 2011–2013 adjusted to the 2nd National Development Plan so that the people in charge, the milestone deadlines, and the resources necessary for implementation should be named. The report on the implementation of the Program will have to include the presentation of the listed measures (legislative work, physical conditions, and professional contents, training programs) as well as the resources used.

A government body is to be set up which would represent the measures necessary for the social integration of people with disabilities in a complex way at the governmental level and which is legally empowered to co-ordinate the implementation. Coordination must also cover the co-operation and co-ordination between the National Disability Program and other programs.

The National Disability Council which, according to the Act XXVI of 1998 on the rights and equal opportunities of people with disabilities can play initiating, proposing, commenting and co-ordinating roles on issues related to people with disabilities, helps in carrying out tasks related to disabilities. The ministry responsible for the running of the National Disability Council is also responsible for the implementation of the Program. The primary responsible bodies for implementation are the various ministries and the local governments.

The help of the National Audit Office is justified when it pays special attention, in the course of its regular audits to how regulations on accessible physical environment are kept, and with special attention to investment projects.

Since there is few data available on people with disabilities, it is necessary that the Central Statistical Office reviews – together with the national advocacy organizations and the concerned ministries – the questionnaires used in the National Data Collection Program for the sake of drawing up and implementing the corresponding professional programs for the protection and support of people with disabilities, and whenever it is necessary and possible to complement them with questions related to people with disabilities.

Furthermore, the participation of various ministries' background institutions (National Family and Social Policy Institute, National Health Development Institute, the National Public Education Institute, the National Public Education and Evaluation Examination Centre, the Employment Office, etc.) and regional development councils is also necessary.

The Government set up the Public Foundation for Children with Disabilities and the Public Foundation for the Equal Opportunities of People with Disabilities in order to co-ordinate and to provide methodological support and information for organizations participating in the implementation of tasks related to people with disabilities. The National Employment Public Foundation also takes part in running employment rehabilitation pilot programs. Their participation in application scheme programs aimed at development by using national funds should also be supported. An important role of the public foundations is to develop methods in which the basic principles of rehabilitation can prevail independently from the special features of the different sectors, to co-ordinate sectorized rehabilitation activities and to support initiatives that make the social integration of people with disabilities possible via rehabilitation. The public foundations also have a special role in co-ordinating the work

of professional organizations in the field of disability affairs, and in serving as a forum which provides the possibility to facilitate the exchange of information among the concerned organizations. It is the central budget that is to provide funds to such public foundations to carry out their tasks and to participate in the implementation of the Program.

In case of using the European Union funds effectively, including the PHARE programs, the co-operation of the National Development Office and the fund management offices responsible for the implementation of the different operative programs is also necessary.

The Monitoring Committee of the National Disability Program is to be set up by the amendment of Government Resolution 67/2001 (IV. 20.) on the organization and operation of the National Disability Council. In order to increase the efficiency of the Program, the possibility to set up a regional institution system to supervise the Program is to be examined with the public administration reform taken into account.

Chapter V: Financial resources for the implementation of the set objectives

The objectives of the National Disability Program can be achieved only with full social co-operation. Therefore the central Government, the local governments, the business sector and the nongovernmental sector must share the responsibility of funding it, with consideration of the primary participants in the implementation of the program.

Evidently, legislative work is followed by costly developments. The funds for them must be provided by the current budget act in its related chapters under the earmarked title of National Disability Program, they must be planned for among the operational costs and expenditures of the different budgetary institutions within the support to the Public Foundation for Children with Disabilities and to the Public Foundation for the Equal Opportunities of People with Disabilities, among the regional development funds, and among the normative support and grants of the local governments. It is important that in case of programs related to the 2nd National Development Plan efforts are to be made to draw in funds from the European Social Fund and from the Structural Funds.

The possibility to establish a central fund for the creating equal conditions through access to education, work and public services (including making public buildings, means of public transport, and public areas physically and info-communication-wise accessible to people with disabilities with different needs, as well as making communication accessible) are to be examined, and educational institutions, employers and local governments could apply for grants from such fund.

The medium term implementation plan for the Program, as well as the implementation report on it should include the financial report as well, and in them European Union funds should especially be highlighted. Regarding tasks related to the new implementation plan, the use of funds that could be used directly for disability purposes should be taken into account in the operative programs (Human Resources Development Operational Program, Economic Competitiveness Operational Program, Agricultural and Rural Development Operational Program, Regional Development Operational Program, Environment Protection and Infrastructure Operational Program). The mobilization possibilities of the rest of the funds should also be reviewed, just as the funds of the European Commission Equal Opportunities, Social and Employment DG.

In order to make the use of funds related to the implementation of the Program transparent we propose the elaboration of an IT based data provision system that is also suitable to avoid double funding.

ACT NO. XXVI. OF 1998
ON PROVISION OF
THE RIGHTS OF PERSONS
LIVING WITH DISABILITY AND
THEIR EQUAL
OF OPPORTUNITIES



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Act No. XXVI. of 1998¹

On Provision of the Right of Persons living with Disability and their Equal of Opportunities²

Preamble

Persons living with disability are members of society with equal dignity and equal standing who are able to exercise the rights and opportunities to which all are entitled only with considerable difficulties or not at all. In the interest of easing the disadvantages of persons living with disability, to lay the foundations for their equality of opportunity and to shape the attitude of society, Parliament – in harmony with the Constitution and the generally recognized rules of international law – adopts the following act:

Chapter I *General provisions*

THE AIM OF THE ACT SECTION 1

The aim of this act is to define the rights of persons living with disability and the instruments for the exercise of these rights, further to regulate the complex rehabilitation to be provided for persons living with disability, and as a result of all these, to ensure equality of opportunity, independent living and active participation in the life of society for persons living with disability.

BASIC PRINCIPLES SECTION 2

- (1) The state, the organizations of society and their members must carry out their activity in such a way that it cannot cause damage leading to the development of disability, and they must create conditions in which persons living with disability are able to live a fuller life and the burdens arising from their disability can be eased.
- (2) In the course of behavior and activity related to persons living with disability, action must be taken in such a way that it prevents deterioration of the state of disability and eases its consequences.
- (3) In the course of planning and decision-making processes the special needs of persons living with disability must be given particular attention and it must be taken into account that persons living with disability are able to take advantage of the possibilities available to all only if special solutions are applied.
- (4) In the course of decisions affecting persons living with disability it must be taken into account that persons living with disability are equal members of society and the local community and for this reason the conditions enabling them to participate in the life of society must be created.
- (5) The state must provide for the respect of the rights of persons living with disability, and for the operation of a system of institutions compensating the disadvantages of persons living with disability, in harmony with the possibilities of the national economy at the given time.

¹ With some comments of György Könczei, Ph.D. (Professor at ELTE FSE). A general comment: a lot of significant investigations has been made in Hungary by people with disabilities, their interest groups, pressure groups, organizations and professionals, professional organizations, the Ministry of Welfare (namely the Minister: Mihály Kökény MD) in order to create this law. New proposals have been made year by year since 1991. The Regulation conception – also available in English – was made in July 1997 in the Ministry of Welfare. However, the last important step has been taken by two members of Parliament: Ms. Gabriella Béki MP and Mr. György Szigei MP dr. iur. They presented the codified version that was made in Ministry of Welfare in the Parliament of Hungary in February 1998.

² The act was passed by Parliament at its session – last day – on 16 March 1998. (The votes: 309 for, 0 against, 0 abstentions).

SECTION 3

Due to their condition, persons living with disability are less able to exercise the rights to which they are entitled in the same way as everyone else and it is therefore justified that they should be given priority in every possible way.

EXPLANATORY PROVISIONS SECTION 4

For the purposes of application of this act:

- a) person living with disability: anyone who is to a significant extent or entirely not in possession of sensory – particularly sight, hearing – locomotors or intellectual functions, or who is substantially restricted in communication and is thereby placed at a permanent disadvantage regarding active participation in the life of society;
- b) rehabilitation: a process realized in the health care, mental hygiene, education, training, retraining, employment and social welfare systems, aimed at developing or maintaining the level of capability of the person living with disability for participation in the life of society, and at promoting independent living;
- c) aid: means serving to partially or fully make up for the partial or full lack of physical or sensory capability in persons living with disability;
- d) supporting service: service aimed at promoting independent living for persons living with disability, at meeting their everyday needs and realized through personal participation;
- e) residential home: form of residence for a small community, promoting independent living for persons living with disability.

Chapter II *Rights to which persons living with disability are entitled*

ENVIRONMENT SECTION 5

- (1) The person living with disability has the right to a man-made environment that presents no obstacles, can be perceived and is safe.
- (2) The right set out in paragraph (1) above applies particularly to possibilities for orientation in traffic and the man-made environment.

COMMUNICATION SECTION 6

- (1) Persons living with disability, their family members and helpers must be ensured the possibility of access to information of public interest, as well as to information related to the rights to which the disabled are entitled and the services provided for them.
- (2) Information is accessible if the person living with disability can perceive it and if it ensures for him or her, the possibility of appropriate interpretation.

SECTION 7

The conditions for mutual information must be made possible when persons substantially impeded in communication make use of the public services.

TRANSPORT SECTION 8

The transport systems, further the means of public transport and passenger traffic facilities – including signals and information installations – must be made suitable for safe use by persons living with disability.

SECTION 9

Mobility for persons substantially impeded in transport may also be ensured by operating a network providing transport, from the place of departure to the destination.

SECTION 10

Provisions must be made for the creation of parking spaces of suitable number and size in public parking areas for the use of persons with disability impeded in transport, in keeping with the separate regulation.

SUPPORTING SERVICE, AIDS

SECTION 11

Use of the supporting service appropriate to the needs justified by the disability, and aids must be provided for persons living with disability. A separate regulation shall determine the range of aids obtainable at a subsidized price, the manner and extent of support.

Chapter III

Target areas for the equalization of opportunities

HEALTH CARE

SECTION 12

- (1) In the course of providing health care for persons living with disability – in harmony with Act CLIV of 1997 – the needs arising from their disability must be taken into account.
- (2) Persons living with disability must be provided – in conjunction with the disability – with regular and efficacious health care needed for the improvement of their condition and to prevent the deterioration of their condition. Persons caring for persons living with disability must be ensured the possibility of special training and further training.
- (3) In the course of health care for persons living with disability, efforts must be made to ensure that the care promotes rehabilitation and social integration and does not strengthen the sense of illness.

EDUCATION, TRAINING

SECTION 13

- (1) It is the right of the person living with disability to take part in early development and care corresponding to his or her condition and depending on age, to kindergarten training, school training and education and development preparation for such education, in keeping with the provisions of the act on public education.
- (2) If it is advantageous for development of the capabilities of the person living with disability – in keeping with the opinion of the expert and rehabilitation committee set up for this purpose – the person living with disability shall take part in kindergarten training and school education together with other children and pupils, in the same kindergarten group or school class.

SECTION 14

The kindergarten and school providing the kindergarten training and school training and education of a child living with disability shall be chosen by the parent on the basis of the opinion of the expert and rehabilitation committee.

EMPLOYMENT

SECTION 15

- (1) Person living with disability are entitled to integrated employment or, in the absence of such employment, to sheltered employment.
- (2) The employer providing employment must ensure the workplace environment to the extent required to perform the work, in particular ensuring the suitable modification of tools and equipment. Applications can be made to the central budget for support to cover the costs of such modifications.

SECTION 16

If employment of the person living with disability cannot be ensured within the frame of integrated employment, as far as possible the right to work must be ensured for him or her through the operation of special workplaces. The central budget extends normative support to such sheltered workplaces.

PLACE OF RESIDENCE SECTION 17

Persons living with disability have the right to choose a form of residence – family home, residential home, institution – corresponding to their disability and personal circumstances.

CULTURE, SPORT SECTION 18

- (1) It must be made possible for persons living with disability to visit educational, cultural, sports and other community facilities.
- (2) The use of sports and leisure facilities must be made accessible to persons living with disability in order to create the possibility for participation in sports.
- (3) Leisure and mass sports for persons living with disability are supported by the Miklós Wesselényi National Youth and Leisure Sport Public Foundation, and competitive and elite sport by the Aladár Gerevich National Sport Public Foundation.

Chapter IV *Rehabilitation*

THE RIGHT TO REHABILITATION SECTION 19

Persons living with disability have the right to rehabilitation. The exercise of this right is ensured by rehabilitation services and care.

SECTION 20

The Government shall set up a public foundation to carry out the state task set out in Section 21 below. Acts or government regulations may set further tasks for the public foundation.

THE REHABILITATION SERVICE AND CARE SECTION 21

In the interest of achieving the rehabilitation of persons living with disability, the public foundation shall provide the following services:

- a) publication of a system of criteria for the elaboration of drafts for a suitable program corresponding to the existing or developable capabilities of persons living with disability, comprising the regular measurement of the development of capability achieved in the course of the rehabilitation process and making possible the amendment or further development of the rehabilitation program as required;
- b) organization of access to the services and benefits specified in the rehabilitation program;
- c) co-operation with the organizations and persons taking part in the process of rehabilitation, monitoring their rehabilitation activity;
- d) elaboration of the directions for development of aids and the supply of aids;
- e) elaboration of the considerations to be taken into account by the helping services and in creating a network of such services;
- f) elaboration of professional–methodological recommendations based on the experiences gained in the rehabilitation process;
- g) gathering data and information related to the organizations providing the service and the rehabilitation services they provide, in the interest of informing persons living with disability, their family members and helpers.

Chapter V

The cost of disability pension

SECTION 22

Persons above the age of 18 years with serious disability are entitled to disability support to cover in part the additional costs arising from the disability, as set out in a separate act.

SECTION 23

The monthly sum of the disability support shall be equivalent to 80% of the minimum old-age pension at the given time.

Chapter VI

National Disability Council

SECTION 24

- (1) The National Disability Council (hereinafter: Council) shall assist the Government in carrying out its tasks related to disability affairs.
- (2) The Council
 - a) takes initiatives, makes proposals, gives opinions and co-ordinates in decision-making related to persons living with disability,
 - b) carries out analysis and evaluation in the process of implementation of decisions.
- (3) The Council
 - a) gives its opinion on draft regulations affecting persons living with disability;
 - b) makes proposals for decisions, programs and legal regulation affecting persons living with disability;
 - c) takes part in the co-ordination of activities affecting the affairs of persons living with disability;
 - d) regularly informs the Government on trends in the life situation of persons living with disability.
- (4) The Council elaborates the National Disability Affairs Program and monitors its implementation.

SECTION 25

- (1) The members of the Council:
 - a) deputy state secretaries of the Ministry of the Interior, the Ministry of the Environment and Regional Development, the Ministry of Transport, Communications and Water Management, the Ministry of Culture and Education, the Ministry of Labor, the Ministry of Welfare, the Ministry of Finance;
 - b) four persons delegated by national organizations representing the interests of the physically disabled, the deaf, the blind and the mentally disabled persons;
 - c) two persons delegated by the organizations of sheltered workplaces;
 - d) one person delegated by the federation grouping national bodies representing the interests of local authorities;
 - e) two persons delegated by non-profit organizations operating in the interest of persons living with disability.
- (2) The president of the Council is the minister of welfare.
- (3) The Council holds its sessions as required, but at least quarterly.
- (4) The Council has a quorum if more than half of the members are present.
- (5) The operating costs of the Council must be ensured by the central budget as an item in the budget of the Ministry of Welfare.

Chapter VII *National Disability Program*

SECTION 26

- (1) In the interest of laying the foundations for the measures needed to create equality of opportunity for persons living with disability, Parliament shall draw up a National Disability Program (hereinafter: Program). The contents of the Program must be taken into account when making decisions in the areas of planning for health, employment, education and transport, in regional development and in other state planning.
- (2) The Government shall provide for elaboration of the Program and for submitting it – through the minister of welfare – to Parliament in the form of a draft Parliamentary Resolution.
- (3) The Program shall contain the following
 - a) a presentation of the social situation of the population living with disability;
 - b) identification of the aims related to rehabilitation;
 - c) tasks needed to bring about a favorable change in social attitudes affecting persons living with disability;
 - d) identification of the system of conditions needed for improvement of the quality of life of persons living with disability and their families;
 - e) plans promoting the active participation in social life of persons living with disability;
 - f) definition of the justified extent to be attained in transformation of the transport systems (public transport means, passenger traffic facilities), transport and the man-made environment, and in the target state of special education and special employment, in line with the number of persons living with disability and their socially recognized needs;
 - g) specification of the necessary means and institutions, and the necessary financial sources for attainment of the goals set.
- (4) The Program shall be adopted by Parliament. The Government shall report annually to Parliament on its implementation. Parliament shall re-examine the resolution at least once every four years.

Chapter VIII *Protection of the rights to which persons living with disability are entitled, responsibility for the tasks arising from the act³*

SECTION 27

Any person suffering an unlawful disadvantage because of his or her disability shall be entitled to all the rights which apply in the case of violation of individual rights.

FINAL PROVISIONS

SECTION 28

This act shall enter into force on 1 January 1999, with the provision that legislative provisions related to the disability support must be created by 30 September 1999.

SECTION 29

- (1) Transport systems, public transport means and passenger traffic facilities – including signals and information installations – already operating at the time of proclamation must be gradually, but by 1 January 2010 at the latest, brought into compliance with the conditions set out in Section 8 above.

³ This is the non-discrimination paragraph. The para. refers to the Civil Code. The 76 § of the Civil Code prohibits any kind of – negative – discrimination on the ground of sex, race, nationality or religion. (But it does not mention disability; this is why it was necessary to refer to it in the law.)
The 84 § of the Civil Code says that in the case of violation of any individual rights, the aggrieved party may bring the question before the court in order to let the court decided the infringement etc.

- (2) The network providing transport regulated in Section 9 of the present act must be built up gradually, but must be completed by 1 January 2010 at the latest.
- (3) The objective and staffing conditions for the special education of persons living with disability regulated in Section 13 above must be created gradually, but must be completed by 1 January 2005 at the latest.
- (4) The conditions set out in Section 16 above for the employment of persons living with disability in special workplaces must be created gradually, but must be completed by 1 January 2005 at the latest.
- (5) Institutions providing long-term residence for persons living with disability must be altered gradually, but by 1 January 2010 at the latest, in such a way that care for persons living with disability capable of independent living with personal help are housed in residential homes for small communities, further that humanized, modernized institutional care must be provided for persons living with serious disability who are in need of such care.
- (6) Public buildings already existing at the time of proclamation of this act must be made obstacle-free gradually, but by 1 January 2005 at the latest.
- (7) The National Disability Affairs Council shall be set up within three months of the time this act comes into effect.
- (8) The Government shall submit the Program to Parliament by 30 April 1999 at the latest.

SECTION 30

- (1) The Government is authorized to set out the following in a regulation:
 - a) detailed rules for determining disability;
 - b) rules for the award and payment of disability support;
 - c) rules for the operation and financing of special workplaces.
- (2) The minister of welfare is authorized to set out in a regulation the professional rules for the establishment and operation of supporting services.

Árpád Göncz
President of the Republic

Dr. Zoltán Gál
Chairman of Parliament

Appendices

Appendix No. 1

Brief summary of a discrimination test case

Seven physically handicapped Hungarian private citizens brought a suit against three different financial institutes in Budapest, charging that the operation of the newly constructed buildings operated for the purpose of a bank, violates the personal rights of the plaintiffs. On the basis of expert opinion, the legal expert established that the entrances of the buildings concerned are not suitable for allowing access to the defendant public institutions by the plaintiffs who are physically handicapped and for the most part use wheelchairs. The Court of the first instance brought a valid ruling declaring this situation to be disadvantageous discrimination violating the personal rights of the plaintiffs. The Court stressed that the construction of the entrances in such a manner is also contrary to the provisions of the National Building Rules.

The Court of the second instance in a valid ruling affirmed the ruling of the Court of the first instance. It pointed out that the plaintiffs, as physically handicapped persons, in a manner precisely attributable to this cause are excluded from the possibility of availing themselves of the services of the defendant institutions, which it qualified as disadvantageous discrimination.

The Supreme Court maintained the valid ruling. In its justification it referred to the fact that Section 76 of the Civil Code qualifies any disadvantageous discrimination against private persons as violation of personal rights, keeping in mind Section 70/A (1) of the Constitution and Section 8 (1) of the Civil Code.

Date of the Supreme Court ruling: Budapest, 2 June 1995.

Annex No. 2

Brief summary of the ruling of the Constitutional Court on discrimination against persons living with disability

The Constitutional Court of the Republic of Hungary issued among its Constitutional Court Rulings the following ruling No. 553/B/1994 AB on 23 June 1997 in Budapest.

The petition submitted by the President of the National Federation of Associations of the Physically Disabled requesting that the amended Government Regulation concerning travel concessions for persons with a serious physical handicap be subsequently declared unconstitutional and annulled, and the applications submitted calling for a finding of unconstitutionality manifested by default were rejected.

In its detailed justification, the Constitutional Court, among others, pointed out the following:

- Section 70/A (1) of the Constitution forbids only discrimination violating the right to human dignity, which in the present case could be found to exist only if there were default by the state, that is, in the case of the entire absence of regulations ensuring social welfare concessions.
- In this way the travel concessions for the physically handicapped cannot be classified among the fundamental rights, and consequently the regulation at the level of a Government Regulation cannot be qualified as unconstitutional either.
- Equality of opportunity for the various disadvantaged social groups cannot be ensured through particular regulations or state measures, but through a system of regulations and state measures. It does not follow from Section 70/A (3) of the Constitution that the provision of equality before the law means identical and equal support for the various disadvantaged groups.

Annex No. 3
Original regulation Conception (Green Paper)
for the Act on the Rights of Persons with Disabilities
and Equalization of their Opportunities 1997

In Hungary there are several hundred thousand disabled persons seriously impeded in social co-existence. They include several tens of thousands with a serious degree of congenital or acquired disability. We meet very few of them in everyday life because they remain in their homes or closed in institutions; for lack of possibilities and alone they cannot even go out on the street. They are blind and are unable to find their bearings; they are mentally handicapped and the society into which they were born does not accept them; they use wheelchairs but are unable to move around with them on the streets and in shops; they are living with deafness or have serious speech problems and are unable to communicate. The fact that in reality persons with disabilities are unable to exercise many of their rights has a far-reaching effect in restricting life possibilities, not only for them, but more widely, for their relatives and families.

Further problems are caused for these people, who already have to cope with exceptional difficulties, by the fact that society discriminates against them in the areas of employment, mass communications, transport, study, health services, sport and rest. In the absence of suitable legal instruments they are incapable of protecting themselves and asserting their interests. Society's only aim concerning them can be to compensate for their disadvantages and so ensure genuine equality of rights for them and contribute to equalizing their opportunities.

Equalization of opportunities means the process whereby the physical and cultural environment, housing, transport, social and health services, education, employment opportunities, entertainment and sport become accessible for the disabled minority.

Part I
General Provisions

Aim of the act

According to the Constitution of the Republic of Hungary every citizen has the right to have his human dignity respected, the right, like other citizens, to self-definition, to housing, education, the use of public institutions, to enter employment on the open labor market, to entertainment, culture, communication, health care, security of income, social protection, use of the health services, the exercise of religion, access to the goods and services he needs, and to participation in the preparation of all kinds of decisions affecting him. Disabled citizens are entitled to the same civil and political rights, economic, social and cultural rights as any other citizen. However, in reality in their case these rights cannot be exercised.

The basic condition for the realization of human rights and citizens' *equality of rights* (the provision of special, normative conditions for the possibility of exercising rights despite the natural restrictions of rights) is the existence of the conditions for exercise of the rights in the case of individuals and the different social groups.

At the abstract level of human and civil rights this applies exclusively to the naturally objective differences – age, gender, disability, sickness – in the conditions for the exercise of rights. These natural differences are not covered or only partly covered by the legal categories of legal capacity (the personal right to rights and obligations in general) and ability to act (personal legal capacity to exercise the rights and fulfill the obligations). What is involved here is not only and not principally what techniques of representation and guardianship can be used, in cases where there is a permanent or temporary, full or partial lack of the ability to act required to exercise rights, to ensure the exercise of rights to which everyone is entitled on the basis of equality of rights, but also and principally that without the use of special methods and procedures (rights and obligations), exercise of the rights to which everyone is entitled on the basis of equality of rights is naturally impossible for certain social groups having restricted endowments for the exercise of rights.

The right of the disabled person to free access to culture, to education, transport, etc., can only be realized, independently of the fact of the declared equality of rights and the legal capacity and ability to act to which he is entitled, if the society ensures him, as a citizen objectively restricted in the exercise of his rights, the necessary conditions for his special exercise of rights.

If the conditions lifting the objective restriction on the exercise of the rights of this social group do not exist, the principle of equality of rights remains a mere declaration and the seeming equality of rights presents the de facto legal disadvantages as immutable and “in order” from the legal viewpoint. To a considerable extent the legal disadvantages arise from the restricted capacity for the exercise of rights: the possibility and reality for the exercise of rights determined by personal circumstances and endowments which the society can ease or compensate with a ban on negative discrimination and by using instruments of positive discrimination. Without these, the declared civil rights are violated in the case of disabled persons because – due to their life situation – they are naturally restricted in the exercise of certain of their basic civil rights set out in the Constitution.

In the case of social groups naturally restricted in the exercise of their rights (disabled persons, children, ethnic minorities and in a certain sense women), it is not only the sphere of economic and social rights that is involved but the full range of human and civil rights. Provision according to special conditions for the exercise of rights must be based principally on legal instruments.

Due to the above reasons, the unregulated situation of Hungarian citizens living with various types of disability or with multiple disabilities makes it necessary to draft this act. This is in harmony with our obligations undertaken in international agreements and with the requirement of drawing closer to Europe.

Caring for persons living with disabilities and providing services that are accessible for them is the task of the state. The realization of this must be made the task of the county and local authorities and civil organizations, as far as possible providing increasing funds which can be used only for this purpose.

The act must therefore serve principally the following two aims:

1) It must make the rights guaranteed in the Constitution for all Hungarian citizens exercisable for disabled persons! In particular: the right to human dignity (§ 54), to freedom (§ 55), to equality of rights (§ 70/A), to free choice of workplace (§ 70/B), to social security (§ 70/E), to free movement and free choice of place of residence (§ 58), and to culture (§ 70/F).

The methods for this, using instruments of the law, are the following:

- formulation of a ban on discrimination against disabled persons,
- making violation of this ban sanctionable,
- defining the actual content of the rights,
- defining the scope of positive discrimination,
- defining the supports in kind (provision of services, provision of aids, range of placement solutions) and for individuals, accessibility procedures, methods,
- definition of financial supports serving to equalize opportunities.

The last three points concretely serve the obligation set out in the Constitution that: “The Republic of Hungary also assists the realization of equality of rights with measures aimed at eliminating inequality of opportunity” (§ 70/A (3)), while the first three serve the contents of § 70/A (2): the law strictly punishes any form of negative discrimination against persons.

2) Shaping a new attitude in relations with persons with disabilities (and with the “weak” in general) (or codifying and strengthening the changes already appearing in this area) which can be expected to have an influence on other areas too.

The essence is that the disabled person should not be a passive (tolerating) object of support but should be encouraged to strive for active self-sufficiency and social integration.

BASIC CONCEPTS

Disabled person: anyone who is to a significant extent or entirely not in possession of sensory or locomotor functions or mental capacity or is autistic, or who is multiply disabled through a combination of these, regardless of whether this state is congenital or developed later.

Equalizing opportunities (the creation of equal opportunities): the process whereby the different social and environmental systems (infrastructure, services, activities, information, documentation) become accessible for everyone, and in particular here for persons with disabilities, as a result of measures banning negative discrimination and assisting positive discrimination.

Negative discrimination: the violation of human dignity as a consequence of disability in the case of individuals or social groups.

Positive discrimination: the provision of concessions or additional rights in the interest of ensuring equality of opportunities.

Independent living: way of life based on the individual's self-determination which becomes possible for the disabled person through the dismantling of barriers existing in the society and through services provided by society (e.g. personal help).

Rehabilitation: activity based on the utilization and development of the existing capabilities of disabled persons, aimed at leading them back into social life or at promoting the realization of participation on a higher level, and at laying the foundations for independent living. This is a complex and interlinking system of services comprising health, mental hygiene, occupational and social services aimed at reducing the disadvantages arising from disability, and also including habilitation.

Occupational rehabilitation: the activity aimed at making disabled persons capable of undertaking work suitable for them, of keeping these jobs and advancing in them, thereby assisting their integration or reintegration into society.

Aids: objects, close to or remote from the body, serving to partially or fully substitute for the lack or malfunction of physical and/or sensory functions, directly or indirectly assisting independent living and prevention.

Supporting services: personal and institutional forms of support which serve to ease or eliminate handicaps arising from disability, help in reducing the level of dependency of disabled persons in their everyday life and in the exercise of their rights (e.g. personal helping service, special sign language interpreter).

Absence of obstacles (accessibility): access to the physical environment, information and communication in the case of disabled persons.

The scope of the act covers:

disabled persons living in the territory of the Republic of Hungary, of Hungarian citizenship, or immigrants holding an identity card entitling them to permanent domicile, or recognized by the Hungarian authorities as refugees.

Part II *The rights of disabled Persons*

1. The problem to be solved in Part I of the act is that the most substantial barrier to social integration of persons living with a disability is the prejudice against them and the negative discrimination resulting from their stigmatization and manifested in all areas of life.
2. The aim of Part I of the act is
 - to declare the equality of rights in all areas of social life of persons coming within the scope of the act and to ban negative discrimination against them and, where it is absolutely necessary, to apply positive discrimination,
 - to create the conditions for equality of opportunity for disabled persons so that persons with disabilities can live as equal, independent members of society and act, so that their living conditions can improve and the social disadvantages arising from their disability diminish,

- to promote the full and active participation of disabled persons in the preparation of decisions at all levels affecting them and as far as possible also in the decision-making, and enabling their participation in the life of the community.

BASIC RIGHTS

Disabled persons are equal members of society. No one may suffer negative discrimination because of a disability.

The most important obstacle to equalizing the opportunities of disabled persons is the lack of equality of rights, and the negative discrimination. The act therefore declares, in the case of persons coming within its scope, equality of rights with all other Hungarian citizens, and bans any form of negative discrimination against them in all areas of everyday life.

The act makes it possible for a person who, as a consequence of violation of the provisions of the act, has suffered an unlawful disadvantage because of a disability to seek redress through the courts against the causer, in order to terminate the violation and to receive compensation for any damages suffered. All disabled persons of all ages have the right to complex rehabilitation corresponding to their individual needs. This means that the rehabilitation is aimed at the whole person, depending on age and condition.

Freedom of conscience and political rights

Disability may not represent a disadvantage in the free choice of ideology, religion and political views, in the everyday experience and free exercise of these personal decisions.

The free exercise of these rights must be promoted by improving the conditions of information and communication, changing the man-made environment and by providing the services needed for all this.

Rights related to participation in social life

Disability may not exclude anyone from participation in the life of society in keeping with his social, health, educational and cultural needs and demands.

The disadvantages arising from disability must be eliminated by providing aids appropriate for the condition, further by eliminating obstacles in transport and the architectural environment, and by measures to be taken in the field of promoting communication.

Environment

All disabled persons have the right to an obstacle-free and safe environment to which they have access, can approach, reach and recognize. This right extends in particular to the architectural environment, to the transport possibilities and communication systems.

The lack of an obstacle-free environment, information and communication possibilities, aids and personal conditions may not prevent any disabled child from receiving education.

Architectural environment, public buildings, public spaces

Following the entry into force of this act only obstacle-free public buildings (buildings for public purposes) may be built. Freedom from obstacles means that persons in wheelchairs are able to enter the building, can reach the areas there intended for daytime use through the doors, the upper levels can be reached by lift which can be used with a wheelchair and that there is at least one WC in the building accessible and usable with a wheelchair and provided with grips, and that the stairs are provided with rails with grips.

Over the medium term all public buildings (including courts, local authority buildings, cinemas, theatres, concert halls, hotels, inns, sports facilities, churches, museums, libraries and archives, public education institutions) – if not yet obstacle-free – must provide at least one entrance with a ramp, if necessary a stair lift, and an accessible, obstacle-free WC. To achieve this, the operators of public

buildings must draw up a long-term schedule. The case of protected historic buildings must be regulated separately with the participation of the National Historic Monuments Inspectorate.

This provision must be implemented in stages: firstly in the most central areas of towns and then from there outwards.

All public buildings undergoing alterations must be made obstacle-free.

Following the entry into force of this act, all road surfaces being renovated may only be made available for use again after the curbs have been provided with lowered access points.

The facilities of leisure centers, parks and zoos must be made obstacle-free within 15 years.

Building permits may not be issued for the plans of public buildings in which the architectural solutions prevent use of the given facility by persons living with disabilities. Permits for the use of such public buildings may not be issued.

Transport

Local public transport vehicles (trams, buses, trolleybuses) and district public transport vehicles must be made suitable for use by disabled persons.

If this is not successful, or in the case of persons who are incapable of using public transport vehicles, a minibus, door-to-door transport network must be created and launched in the towns for citizens who do not have a vehicle.

After 9 years following entry into force of this act, the public transport organizations – urban and local: buses, trams, railways – may not purchase or lease vehicles not suitable for use by persons with serious handicaps or using wheelchairs.

In the future, traffic signs may only be placed in such a way that they do not prevent movement by persons living with disabilities.

After one year following the entry into force of this act, county and municipal authorities must provide free parking space provided with a special sign in all parking areas for the use of persons living with disabilities, whether the parking area is in private or local authority ownership. At the same time they must ensure that the parking places reserved for the physically handicapped may only be used by such persons.

After one year following the entry into force of this act, newly installed traffic lights in dangerous intersections must be provided with acoustic signals.

Communication

Newly installed public telephones must be accessible from a wheelchair.

In case of necessity, the use of suitable means of communication must be made possible, or a sign-language interpreter provided free of charge not only in the courts but also in other public service institutions of exceptional importance for persons living with deafness or persons having serious difficulties in speech for some other reason, with serious communication difficulties.

Further:

Eye and ear clinics, as well as pediatric clinics and medical rehabilitation institutions must notify the local authorities for the place of residence if a person with a serious disability comes into their territory.

The local authorities must keep a record and assess the needs of disabled persons living in their territory, respecting the provisions of the act on the protection of personal data. Within 5 years following the entry into force of this act – if they express a demand for this – all deaf-blind persons must be provided with a trained sign-language interpreter for 8 hours a day as a personal helper, even if they live in a county or national institution for the deaf-blind people.

Education

It is the right of all disabled children to be raised in the least restricting environment, as far as possible in a family, and to receive free, special pedagogical services appropriate for their needs, from the time the disability is determined.

It is the right of every disabled child, its parents or guardian, consulting with experts on the education possibilities best adapted to the child's special needs and condition, to be able to choose among the possibilities ensured in the Act on Public Education: integrated schooling, education in special schools or private teaching. Specialized services adapted to the child's condition must be provided for disabled children studying in majority schools.

The disabled child or its parents are entitled to the right to choose the form of education (integrated schooling, private teaching, special education).

The welfare nurse system must be supplemented with experts in remedial teaching so that it is capable of providing those caring for disabled children with continuous advice already in the pre-school years.

In the interest of disabled children of school age, an effort must be made above all for disabled children to be able to participate in general primary and secondary schooling. In the case of integrated education too, specialized remedial teaching assistance and all the conditions for special education must be ensured.

For disabled children who cannot take part in integrated schooling, training within the remedial teaching institutional network corresponding to the disability must be ensured.

The state body maintaining the remedial teaching institutional network must provide these institutions with the aids making it possible to train the disabled student for work, to ensure the general development of the capabilities of the student and learning a trade.

Activities

- for the development of individuals or small groups,
- developing the child's capabilities with the specialized assistance of remedial teachers, adapted to the child's condition

must be provided for disabled children.

The negative effects of the "vocational aptitude test" restricting the entry of disabled young people to higher education and involving negative discrimination must be reduced to a minimum so that they are not excluded from the possibility of acquiring training in occupations which their capabilities allow them to perform.

The training of socially needy disabled young persons continuing their studies in higher education institutions must be supported with free aids, free tuition and free hostel accommodation, as well as with special supporting services required (e.g. a reading aloud service for 4 hours a day for blind students, sign-language interpreter for deaf students). This obligation is borne by the organization operating the higher education institution.

Employment

The ban on negative discrimination here means in particular that the employer may not discriminate against a disabled person having the same qualifications because of the disability when applying for a job, in hiring, workplace promotion, remuneration, dismissal and employment.

The legislator wishes to promote the application of this ban with legal instruments and by setting out the obligation to give various forms of priority. As a basic principle, the aim of these rules is to promote the creation of a system serving integration.

To this end:

- Section XXIII of the Civil Procedure must be amended, making it possible to seek redress in the courts not only for negative discrimination applied within an existing employment relationship, but also in case of discriminatory rejection when applying for work. This procedure ensures rapid legal remedy (obligation to set the date of hearing within 15 days),

- the repetition here of the anti-discrimination rules in the Labor Code reverses the burden of proof in this respect too (the employer must prove that he did not discriminate, the disabled party must prove that he met the criteria in the same way),
- it must be set down specifically that in the case of identical conditions, priority must be given to the disabled person.

The employer must ensure “suitable working conditions” for the disabled employee in all respects given for the other employees of the firm; through restructuring of the work, part-time or modified employment, procurement of appropriately adjusted or modified tools and equipment, etc.

If his condition justifies it, the disabled person has the right to perform work in a special workplace (special enterprise, employment institution).

Other areas

The right to avoid humiliating treatment

No one may be subjected to humiliating treatment, and this ban receives special emphasis as regards official procedures. In the interest of ensuring respect of this ban, the work of the authorities must be co-ordinated to spare persons from unnecessary and senseless procedures.

In the interest of eliminating humiliating procedures, each authority which keeps records or uses data on disabled persons in the course of official procedure and in the manner specified and restricted by the regulation, must make these available to all other authorities which come into contact with disabled persons on the basis of their official obligations.

For example: men living with a disability, either in a family or under other circumstances (e.g. receiving institutional care) may not be called up for enlistment in the armed forces. Within 6 months of the entry into force of this regulation, the heads of all residential institutions and all district doctors must inform the recruitment centre competent for the place of residence of the disabled men in writing on the presence and condition of disabled men living in the institution under their direction or in their treatment. The recruitment centre must take into account the official document on the condition of the disabled person issued by the committee of experts.

INSTITUTIONAL SYSTEM CONTROLLING IMPLEMENTATION OF THE PROVISIONS OF THE ACT

The National Council on Disability Affairs

The Council is a national body on disability affairs attached to the Government.

- Its President is the Prime Minister;
- its members, together with the president number 11, of whom 4 members are delegated by organizations representing persons with disabilities at national level, the remaining 7 are high-level representatives of the 5 ministries concerned, and representatives of the employees and employers. The Council draws up its own rules of procedure, organizational and operating rules.
- The secretary of the Council is a full-time office-bearer who is always appointed from among representatives of the organizations representing the interests of persons with disabilities.

The Council may invite a consultant or expert to its meetings. There is no financial compensation for office held in the Council. The Council has an independent budget. The size of the budget is determined by Parliament in the annual central budget in such a way that the Council is able to fully discharge its tasks from the sum provided for it. The Council may request the assistance of paid experts on occasion to carry out professional activities that cannot be done on a suitable standard by the employees.

The tasks of the Council:

It is entitled and obliged to give an opinion on all draft regulations affecting disabled persons.

- It is entitled and obliged to follow with attention the realization of the present act.
- It is entitled and obliged to follow the area with general attention, to gather information in a way that does not violate individual rights, to make recommendations for improvements in any special area of disability affairs.
- It is entitled and obliged to co-operate with the disability affairs committees of county and municipal authorities on any problem in the area, and to co-operate with non-profit organizations protecting the rights of persons with disabilities.

- It must provide the necessary information on any aspect of disability affairs for Hungarian natural and legal persons approaching it.
- It is obliged to regularly issue publications containing information of public interest.
- It is obliged to provide the competent ministries and the civil rights ombudsman with information concerning all phenomena qualifying as being of public concern it observes in connection with realization of the present act.

The operation of the Council at county and local level:

In the interest of the more effective realization of the representation of interests and the more successful solution of the problems of disabled persons, all county and municipal local authorities must set up a disability affairs committee. The task of the committee is to give an opinion on all local authority decisions affecting disabled persons living in the settlement, to follow with attention the life of disabled persons living in the territory of the local authority and to continuously monitor the realization of the provisions set out in the present act, where necessary making recommendations for amendments to the act. At least half of the members of the committee must be representatives of organizations of disabled persons. The local authority decides on the number of members, the rules of procedure of the committee and its operating conditions.

C) National Institute of Disability Affairs

As the national background institution of the Ministry of Welfare it is part of the mechanism for the preparation of ministerial decisions. In addition, its activity includes international and national co-ordination and methodological work.

Part III

Rights and Services in the Interest of the Exercise of basic Right

The problem of Part II is that the present rehabilitation system operates with extremely low efficiency, in an economically ineffective way and it does not contain the ideal of achieving the maximum possible independence (independent living).

The aim of Part II is in part to change the above situation and thereby create an institutional frame for the broadest spectrum of rehabilitation at present attainable, and in part, through this, to make those affected capable of independent living at the highest possible level.

REHABILITATION

Use of the rehabilitation services is free of charge for disabled persons.

As far as possible the rehabilitation services must be made available at the level of the local community where the disabled person concerned lives (community-based rehabilitation). The task of the community-based rehabilitation model is to provide the patient in need of rehabilitation with the appropriate concrete services (e.g. physiotherapy) at local level, in such a way that the patient and the immediate family are also taught the most important tasks. In addition to this, it must mobilize local resources, train local helpers and seek out local employment opportunities. Departures may be made from this principle in the case of services in the regional institutional system providing medical rehabilitation to be set up by this act linked to the existing system of medical institutions, and the services of the institutional system providing occupational rehabilitation (the institutional system defined in Parliamentary Resolution No. 75/1997. (VII. 18)).

To ensure that the rehabilitation process can begin as soon as possible, regular screening tests must be conducted, beginning at the youngest possible age. Since early recognition of most diseases leading to disability and the various forms of disability can bring a substantial improvement, the health body which detects suspected disability must report the suspected disability to the local authority without delay so that the work of rehabilitation and development based on it can begin as soon as possible. It is the task of the local authorities to create the operating conditions for the provision of early care.

The compulsory eye screening tests and functional sight examination must be brought down to below the age of 3 years: the first test must be made at the age of 6 weeks, the second at 1 year and the third at 2 years. There is an obligation to report in force at present, but it does not work. Continuous or random monitoring and the use of sanctions where necessary must be applied to make the regulation effective in this area.

Determining the fact of disability up to the age of 18 years is the task of the following Professional Committees according to the Public Education Act:

- County (Budapest) Committee for the Examination of Learning Ability
- National Hearing Test Committee of Experts
- National Sight Test Committee of Experts
- National Speech Test Committee of Experts

It is the obligation of these committees

- to direct disabled children detected to the Rehabilitation Centre competent for the place of residence,
- at the same time to report the fact of detection to this Centre,
- and to issue a treatment book for the child. (Data recorded in the treatment book: personal data – to be kept to the essential minimum, the problem or symptoms detected, the time of examination, the name of the Rehabilitation Centre to which the child is directed, recommendation for prevention or development, as well as detailed personalised information on the problem, the need to respect transfer to the other institution, the operation and conditions of the system of care, signed by the parent or guardian (or the person accompanying the child to the test).

Determining the fact of disability above the age of 18 years is the task of the Permanent County Rehabilitation Professional Committees to be set up by the county authorities and operating under the professional supervision of the Ministry of Welfare. In order to ensure the appropriate interdisciplinary professional composition of the Committee, it must be ensured that the appropriate medical specializations, a psychologist, psychiatrist, at least an expert in the evaluation of capabilities and a development expert are represented in it. Provisions must be made for the training of experts in the evaluation and development of capabilities, at higher or postgraduate level.

Tasks of the Permanent County Rehabilitation Professional Committees:

- to determine the fact of disability (make a diagnosis),
- to determine the extent of lost capability,
- to determine or estimate the remaining or developable capabilities,
- to plan a personalized rehabilitation program, designate the professions and experts to be involved, estimate the time required for implementation of the planned program,
- the expert collection of problems arising in care and services in the area of operation of the Rehabilitation Committee, elaboration of proposals for their solution and regular (annual) forwarding of these to the body maintaining the facilities, carrying out the task of professional monitoring, elaborating methodological recommendations,
- to inform the various service-providers of those undergoing rehabilitation.

The operating rules and precise scope of tasks of the committees determining the fact of disability below the age of 18 and above the age of 18 are set by the minister of welfare and the minister of culture and education in a regulation. The payment of benefits in cash and kind begins following their official report.

It is the duty of the Permanent County Rehabilitation Professional Committees to follow with attention the state of the disabled person and take the necessary measures.

IN CONNECTION WITH DEVELOPMENT OF THE CAPABILITIES OF DISABLED PERSONS

two alternatives can be proposed:

A) Rehabilitation Centers

The link missing in the Hungarian rehabilitation system needs to be created in the act for the Rehabilitation Centers. One such centre is needed at the level of each region (4-5 for the whole coun-

try) since the greatest shortcoming in the Hungarian rehabilitation system is the lack of modern evaluation of capabilities, not merely for employment, and the subsequent targeted, high standard training. The most important background institutions for this training are the Rehabilitation Centers. Besides development following the broad estimation of capabilities, these also give advice aimed at physical and mental restoration and the fullest possible elimination of the consequences of the damage using high-standard procedures and instruments for the evaluation of capabilities, training and capability development procedures, equipment, machines and trained experts (principally experts in the estimation of capabilities, remedial teachers, rehabilitation consultants, physiotherapists, occupational therapists).

The Permanent County Rehabilitation Professional Committees provide professional supervision for the Rehabilitation Centers.

The activity of the Rehabilitation Centre can be divided into two main stages:

- Observation period: aimed at the broad assessment and development of capabilities. This must also include selection of the optimal occupation, although training for this is not given in the same institution.
- In the training period personalized, flexible methods are used to make the individual capable of more independent living.

The period of training for work and entry into employment: vocational training, the search for a suitable workplace and assisting adjustment to the workplace are carried out within the institutional system defined in Parliamentary resolution No. 75/1997. (VII.18) describing the organizational system of occupational rehabilitation.

In this way the Rehabilitation Centers would make it possible to reduce to a minimum the disadvantages arising from disability and appearing in everyday life. The network of rehabilitation centers must be created on a regional basis, but not necessarily within the frames of the state institutional system. The financial resources required for their establishment and operations are to be created in equal part from the central budget and within the budget frames of the county authorities, in 4-5 county centers. They do not necessarily require green fields investment, but if an existing building is to be used it must be made obstacle-free. Within each region the centers should as far as possible be set up in a county seat.

The Rehabilitation Centre does not mean imposing existing part elements on a physical location (building), but that the elements belong to a single institution. The bodies obliged to create and maintain the Centers, that is, the associated county authorities are free to decide in how many localities the necessary services will be provided and how many state, civil, local authority or even church authorities are to be involved in providing them, and also whether in part an already existing institutional system (welfare nurse network, family help centers, education guidance centers, etc.) will be used or developed to realize the tasks of the Rehabilitation Centers.

The tasks of the Rehabilitation Centers:

- early development,
- where required, special remedial teaching to assist the socialization of disabled children of school age,
- family care in connection with the disability (training for parents, organization and holding of training courses, informal and crisis management),
- help in fitness, maintenance and development treatment and training following medical rehabilitation in the strict sense (physiotherapy, therapeutic massage, therapeutic swimming, etc.), as far as possible at local, community level,
- forwarding individuals to organizations dealing with occupational rehabilitation,
- organization and holding of training to help independent living,
- organization and provision of personal services for persons already capable of independent living,
- following up and assisting persons already living independently.

The Rehabilitation Centers are in contact with the Permanent County Rehabilitation Professional Committees, the specialized medical rehabilitation institutions, the early development centers, the institutions for occupational rehabilitation and the community-based rehabilitation service of the local authorities. Where necessary, they make the services of these institutions available for the disabled

client. They also serve as a source of information for disabled persons approaching them or for other elements in the network of services.

B) National system of Centers Helping persons with disabilities

The aim of the system

The proposed institutional system would operate basically as a dispatch centre and a county network of centers. It would consist of institutions requiring limited staff and investment. Its aim is to bring together disabled clients and the service-providers able to offer suitable services for them. In this way it would be possible to acquire an adequate overview of the disabled persons living in the given area, the nature and severity of their disability and their special requirements; an adequate overview would make possible rational, efficient and just allocation of the capacities of the institutions and organizations in the given area offering help and services.

To achieve this, its task is to supply information supporting decisions for the public financing and regulatory institutions and for the public institutions directly providing services.

Its tasks

From the side of the service-users:

Clients can use the services of the Centers Helping persons with disabilities in four different ways:

- on the basis of voluntary presentation, processing the results of various screening tests,
- at the invitation of the institution, in the case of disabled persons under age and in guardianship (with limited ability to act or incapacitated) or on the basis of a summons,
- on the basis of referral by authorities (e.g. Professional Committees Determining Disability, the medical Committee determining the degree of work disability, labor and social authority dealing with the client on the basis of the obligation to co-operate), on the basis of the recommendation of health care, educational, social policy and other service-providing organizations.

What happens in the Centre Helping persons with disabilities?

The situation, needs and demands of the client are assessed; if required examinations by experts are requested on the condition of the client, the possibility of training and employment; an offer is made concerning the services which can be made available and the possibility of consultation is ensured so that the client can consider the offer and make his intentions and demands more precise.

From the side of results:

The primary product of the Centre Helping persons with disabilities is successful mediation. This can be: making the preparations for determining eligibility for benefits in cash; promoting the creation of an institutional legal relationship with an educational, social, health care or other institution; the establishment of an employment relationship; the beginning of training, retraining or a rehabilitation program; admission to therapy.

Organizational conditions for the operation of the Centers Helping persons with disabilities:

Internal operating conditions: information technology, composition of the team (lawyer, doctor, social worker, remedial teacher, rehabilitation consultant).

The system of external, environmental conditions:

- The Committees determining disability for persons under 18 and persons over 18 must direct disabled persons to the centre.
- There must be a list of services to which the centre can mediate clients (e.g. institutions carrying out early screening, schools providing integrated schooling for disabled children, health rehabilitation service, sheltered workplace, retraining programs for persons with disabilities).
- Data reporting and mediating. Data reporting must also be set as a state administration task, as well as response procedures to mediation initiatives (e.g. the request may be rejected, but the institution approached must give the reasons in writing).

Creation of a Basic Program for Independent Living

The Basic Program differs from the Rehabilitation Fund handled by the institutional system of the labor market. Its annual budget is 500 million HUF.

The following can be financed from the Basic Program:

- the investments required for a new type of small residential home solutions for no more than 12 persons to ease the strain on the present system of services,
- support for the development and use of new technologies helping the everyday life of disabled persons, the development and production of helpful aids and equipment,
- where necessary to conduct pilot studies on providing personal help and other helping services.

Part IV *Benefits in Kind and Cash*

BENEFITS IN KIND

Disabled persons have the right – independently of their income situation – to access to the modern aids necessary for their condition and to their maintenance.

The detailed rules on the range of aids and their availability are to be defined in a regulation based on a proposal drawn up by the National Council on Disability Affairs which the Government is to set up with the present act.

After this act has been adopted, there is a need to rethink the system for the provision of therapeutic aids. The regulation must define the conditions for provision of prostheses, wheelchairs and technical aids in such a way that they are available to a wider circle than at present, in better quality and at lower cost for persons with disabilities, especially for persons with severe or multiple disabilities.

Exemption from customs and VAT must be ensured for all technical aids and prostheses.

The institutions providing services

Preference is to be given for disabled children to remain in the family as far as possible. If they do not have a family or it is not suitable for receiving the child, an attempt must be made to find a foster family.

If an adult disabled person wishes to live alone at his own decision and his circumstances make this possible, he must be given the support needed for this.

In the absence of these solutions, the solution over the medium term is the creation of a network of residential homes for a maximum of 12 persons each, based on the principles of independent living, integration and normalization.

Residential institutions caring for disabled persons may only be closed down if new small or small group residential homes providing at least the same standard of care have already been built to replace them.

Supporting services

Disabled persons have the right to individualized supporting services corresponding to their needs, regardless of whether they live in a residential community or in a social institution.

No one may be prevented by his material or income situation from using the supporting services he needs.

It is the task of the local authorities to progressively organize and continuously ensure the supporting services.

Persons with disabilities, their family members and organizations representing their interests must be involved in planning and establishing the supporting services and in evaluating their efficiency.

SYSTEM OF CASH BENEFITS FOR DISABLED PERSONS

In the interest of creating equality of opportunity, in harmony with the tasks defined by the Parliamentary Resolution No. 75/1997. (VII.18) and the principles formulated in the document on “Transformation of the System of Social Services” drawn up in the Ministry of Welfare, we consider that with co-ordinated planning, transformation of the system of cash benefits for persons with disabilities over the long term is feasible.

An important step to be taken towards creation of equality of opportunity is the introduction of a compensation benefit for persons living with serious disability.

Basic principles:

- as a consequence of the provisions of the act, the disadvantages of persons with serious disability should be reduced, with the introduction of the compensation benefit their material and income situation should improve and as a consequence their chances of participation in society should also increase.
- The aim of the transformations and developments is for the benefits serving as the basis for livelihood to become universal, and to ensure rehabilitation services and cash benefits provided for disabled persons. Insurance and the central budget together must cover a basic income for persons unable to enter or return to the labor market. In the case of persons in different situations who have become seriously disabled for different reasons, the conditions for applying for the benefit and the sum of the benefit must be defined in a uniform way. The main cause for application for the benefit must be the serious disability; the conditions and sum of the benefit must be determined on this basis.
- In the wake of the co-ordinated developments, a special form of benefit for seriously disabled persons needs to be created only if they have no access to income from work or to an insurance-based benefit because of their serious disability, or the employment capacity of the labor market organizations or a combination of these factors.
- The system of benefits to be created will have a favorable influence for the targeted population also because it reduces the possibility of applying negative discrimination against them. As a result of the developments, successfully achieved rehabilitation would ensure to a greater extent than at present that their income relations are determined by the earnings achieved. Only in this way would it be possible to avoid the present situation among persons with disabilities characterized by an extremely low income level in the majority of cases. As a consequence, income supplement benefits would be needed in a diminishing number of cases. It may become necessary to amend Act No. IV of 1991 to achieve this.
- The aim of developing the system of aid and the system providing benefits for disabled persons and persons with a changed capacity for work is to ensure the transfers and incomes serving as the basis of their livelihood.

The present act provides for a compensation benefit to which persons with disabilities are entitled, independent of the income, aimed at equalizing the chances of disabled persons. Introduction of the benefit is also necessary because the present cash supports are too complex and multifarious, are not interlinked and in part overlap.

The regulations provide for differing entitlements and differing levels of benefits, in cases even where the same degree of disability is concerned. For most disability groups there are different regulations determining the benefits to which they are entitled on various grounds. The extent of these benefits differs from one disability type to another in a way that cannot be justified by the disadvantages arising from the disability or by characteristics depending on the disability.

The conception of Act No. III of 1993 also included a health impairment allowance which also would have extended the benefit to persons living with all types of disability.

The daily life of persons with serious disability involves substantial additional costs for both the disabled person and his family, so introduction of the compensation allowance would help to create equality of opportunity.

With the introduction of the compensation allowance, the state would recognize the differing requirements of persons with disabilities and that the creation of equality of opportunity because of their situation can only be solved if the state compensates the disadvantage and income disadvantage with a benefit guaranteed by law.

The significance of the compensation allowance to be introduced is not that it balances in cash all disadvantages arising from the disability – under the present circumstances it is not possible to undertake this – but that it represents the right of disabled persons to balancing of the disadvantages in cash.

The cash compensation benefit to be introduced is independent of the size of the income and its payment is not restricted by a means test.

The cash compensation benefit to be introduced is normative; the basis for its award could be in principle:

- a) age,
- b) type of disability,
- c) severity of the disability.

In connection with age, as a criterion of entitlement, three possibilities arise in principle:

- A) only the period between childhood and retirement age would be taken into account, that is, active adulthood from the viewpoint of the possibility of participation in the labor market, or
- B) only childhood would be excluded, meaning that everyone over 16 years of age would be entitled, or
- C) only the period after award of the old-age pension would be excluded; persons with serious disability would receive this compensation allowance in childhood or under the age of 18 years too, in which case the higher child allowance could be terminated.

Independently of the above, the present regulation conception makes no proposal for categorization by age.

Taking into account the type of disability could be based on the fact that the additional costs arising from the disability are not identical for the different disabilities. (For example, calculations show that the additional costs of a person, being deaf in both ears are slightly below those of a physically disabled person using a wheelchair who is of the same age and social status.)

Taking into account the severity of the disability as a consideration increasing the justness of distribution causes certain difficulties: research surveying consumer habits would be needed to determine the equivalent incomes, the special needs arising from the disability and the extent of the benefit serving to compensate this. It is not possible to carry out such research during the preparation of the present act.

The extent of the compensation benefit:

In view of the above, the following position could be adopted as a point of departure: the maximum value of the compensation benefit in the case of serious or multiple disability could be identical to the minimum old-age pension. This sum, which could to a considerable extent compensate the additional costs of living with serious disability, is at present 10,700 HUF/month. The minimum would be identical to the present sum of the personal allowance for persons living with blindness which at present is 5,300 HUF/month. To ensure that the value is preserved, indexation needs to be introduced in the future.

The scope of persons entitled to the compensation allowance:

The reason for payment of the allowance is serious disability and the material and income disadvantages caused by serious disability, affecting the seriously disabled person or his family because of the serious disability.

There are several different categorizations, partly covering the concept and the scope of those involved, but only partly because the different definitions are overlapping and so none of the categories gives a precise figure. The data of the organizations representing the interests of disabled persons, the organizations paying the benefits, and even the specialized medical considerations and evaluations differ from each other. Summing up, it can be said that

- according to one categorization – differing from the spirit of the present conception – 100 % disabled persons in groups I and II can be classified here. (On the basis of figures for September 1995, there were 14,998 group I disabled persons and 92,789 group II disabled. The two groups together represent 117,778 persons.)
- the other categorisation takes into account members of the four main disability groups (blind, deaf, mentally handicapped and physically disabled) in a serious state. This would give a population of approximately 90,000 persons.

Thus, in order of magnitude:

- either it can be said that the benefit would apply to persons declared disabled in today's groups I and II. In this circle consideration should be given to paying the compensation benefit also above retirement age. (According to data for September 1995 there are 14,998 group I disabled persons and 92,789 group II disabled persons. The total for the two groups is 117,778 persons. Of this total, 64,920 persons are below retirement age (young) and 42,667 above retirement age. (Perhaps for this reason too it would be worth accepting persons qualified today as group I and II disabled as the scope of persons entitled to the compensation allowance because the biggest problems of determining and qualifying disability are not found here but in connection with determination of the 67 % disability required for entitlement to a disability pension. At the same time, it can be said that while this approach is logical, it is also formal.)
- or it can be said that the compensation benefit should be paid exclusively to the seriously disabled members of the four main disability groups (those blind in both eyes, those using a wheelchair for mobility, persons deaf in both ears and the moderately serious and seriously mentally handicapped), an approach that better corresponds to the spirit of the present conception.

Current benefits and the compensation benefit:

The system of benefits to be created for persons with health impairment has two main elements, namely:

- benefit making up for lack of income or supplementing low income and
- a benefit to which recipients are entitled on the grounds of serious disability, independently of the size of income.

Benefits in the present system making up for the lack of income or supplementing income are the following:

- disability allowance (83/1987. MT regulation of the Council of Ministers),
- temporary and regular social allowance (3/1983. (EüM-PM regulation of the Minister of Health and Minister of Finance),
- and the regular social aid (Act No. III of 1993).

In the future the uniform benefit must be determined in such a way that disabled persons in the most serious state receive the supplementary benefit independently of income. In this circle the following benefits exist at present:

- personal allowance for persons living with blindness (6/1971. EüM regulation of the Minister of Health),
- higher family allowance (Act XXV of 1990),
- transport support for persons with serious physical disability (164/1995. Korm. Government regulation),
- support for diabetics (18/1987. EüM regulation of the Minister of Health).

Potential source, planning of the compensation benefit:

The compensation allowance for seriously disabled persons would naturally not affect the support for diabetics. However, it would affect the personal allowance for persons living with blindness, the higher family allowance and a part of the transport support for persons with serious physical disability.

Personal allowance for persons living with blindness

All those who currently receive this allowance would receive the compensation allowance for seriously disabled persons on other grounds. The personal allowance for persons living with blindness already serves the purpose which the planned benefit is intended to serve in the case of the other disabilities. This benefit already harmonizes well with the system of social benefits and it must therefore be anticipated that it will be retained over the long term.

The series of measures already begun – only the minimum sum will be raised – must be carried through consistently so that in a few years' time the personal allowance for persons living with blindness becomes a single-sum benefit independently of the life situation. Simultaneous payment of the higher family allowance represents a problem in the case of this benefit.

Transport support for persons with serious physical disability

The compensation allowance would replace part of this. It would leave the sum for purchase of a car unchanged within the transport support, although it is well known that this too is to be developed: a

larger or better targeted sum should be spent for this purpose and it should be operated within a different scheme.

Application for and payment of the compensation benefit:

It is not justified to introduce a new qualifying system and corresponding new determination of disability before the Permanent Rehabilitation Professional Committees to be set up under the act begin operation.

In the future, social insurance payments and applications for the allowance would be made through the Permanent Rehabilitation Professional Committees.

**LIVING A FULL LIFE
BUT DIFFERENTLY**



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The Struggle for the Rights of People with Disabilities

From the ghetto of invisibility to a slow and gradual acceptance

INTRODUCTION

In recent years, people with disabilities have experienced an improvement in their situation, although change has been painfully slow in many areas. A decade and a half ago, acceptance levels in Hungarian society—as elsewhere in the world—were perceptibly lower than they are today. At the time, people with disabilities still tended to be referred to as *fogyatékosok*—the equivalent of the English term “disabled” or “handicapped”. Today, the usual Hungarian expression is *fogyatékosággal élő ember*—the equivalent of the English expression “person/people with disabilities”.¹ The lives of people with disabilities—those with physical, hearing, mental, visual or psycho-social disabilities as well as autism—are now perhaps somewhat easier than they were fifteen years ago. Nevertheless, if you have a disability or other health impairment, you still face many of the same basic problems.

For instance, if you have Down’s syndrome or are a person with autism, you still cannot be sure of appropriate healthcare provision. Your doctor may be ignorant of your needs or even afraid of you, or s/he may simply send you away. You will only find a job if you live in one of the very few areas in Hungary covered by the supported employment scheme, which is only gradually developing into a national system. If you are a person with autism, you will be subject to constant discrimination and rejection. At least now you do not have to fear being turned away or refused service at a bar or restaurant, for the principle of equal treatment was introduced into Hungary’s legal system in 1998.

If you have physical disabilities and you are a wheelchair user, you can now travel on certain trams and buses. And certain pavements now have ramps. On the other hand, with the exception of a few stations, you still cannot use the underground (subway) system in Budapest. The smaller and more rural the settlement in which you live, the less likely you are able to access the offices of your local authority or council. If you have a hearing disability or are deaf, you may possibly find an induction loop at the theatre, and you also have access to the national sign language system, but this service may not be available when you need it most. If you are an expert working with people with disabilities and you apply for government funds in order to realise a specific project or make a proposal concerning an improvement to legislation, the most probable response will be: “Resources are limited, and we have far more important things to deal with.”

A significant change in Hungary is the legal ban on discrimination based on disability. Another positive development is that people with disabilities have come out of the ghetto of invisibility and discrimination. Today, you are more likely than before to find a young person with Down’s syndrome sitting next to you on the underground (subway), to see two people communicating in sign language on the street corner, or to be passed by someone in a wheelchair at an art gallery.

¹ In Hungarian, the word *person* [‘ember’] cannot come first as it does in the English expression *person with disabilities*, but the current expression [fogyatékosággal élő ember] is obviously better than the old one which defined the person merely as *disabled* [fogyatékos].

The process of ensuring that people with disabilities have physical access is slow but continuous. Nevertheless, in the broader sense, change has been minimal when it comes to eliminating people's mindblocks. Indeed, the attitudes of ordinary people still tend to reflect underlying prejudice and stigma. In terms of allocating resources and setting priorities, attention to people with disabilities is once again in decline. In the absence of empirical studies, it is impossible to say whether solidarity has increased or declined over the past fifteen years. Everyday experience in Hungarian society indicates stagnation or possibly decline.

1997: THE COUNCIL OF EUROPE FROM CARRYING OUT DISCRIMINATION TO BANNING DISCRIMINATION

In 1997, the Council of Europe decided to examine whether there was a need for anti-discrimination legislation in its member states. For this purpose a working group was set up with a mandate lasting from the spring of 1997 until the spring of 1999. I now believe that the establishment of the working group was rather unfortunate, but this was not apparent to me at the time.

Many years earlier, Gerben DeJong and Mike Olivier had laid the conceptual foundations of the social model of disability²—which they referred to differently at the time. In the mid-1990s, experts in disability studies formed a new paradigm based on this earlier model, which they referred to as the medical model of disability.³ In line with the traditions of the Council of Europe, a body known for its generally progressive stance, the new model raised important and topical issues. But it seems to have done so in the wrong area, since the working group in question was established under “the partial agreement on social and public health (sic!)”.⁴ This gave free scope to government officials with attitudes reflecting the medical model to respond to an issue that was primarily social and legal in nature. Thus, in addition to the fact that the government officials representing the European countries in the working group were diametrically opposed to a positive response to the issue (for such a response would have required additional effort and resources), as documented below they themselves discriminated against people with disabilities.

At the outset, the working group had two consultants: a German professor and me. My fellow consultant saw which way the wind was blowing. He did not answer the question; indeed, just two pages of his paper (published in 2000) addressed the issue. He acted “wisely”, since this is exactly what the working group wanted: to gloss over the issue and make it seem that not only was anti-discrimination legislation unnecessary but that the issue was not really an issue at all. (My role in this process was to be a “try-your-strength machine”. The working group seemed to automatically dismiss whatever I wrote. It did not even accept my paper,⁵ which was finally published on a website edited by Adolf Ratzka www.independentliving.org.) A colleague who was present at all the meetings and who clearly saw what was happening, said the following: “They don’t like you here. And they won’t like you until you start saying what they want to hear.” For me personally, the two-year period of working for the group was one of unprecedented humiliation. The motto with which I began my paper—a quote from Colin McKay saying “Anyone who has not been subjected to discrimination does not really know what it feels like”—was originally intended to demonstrate the situation of people with disabilities, but it also applied to me. It certainly hurt, but I did not regret the experience. I tried to come to terms with it by acknowledging that it was better to be ignored and to suffer discrimination for the sake of my

² www.leeds.ac.uk/disability-studies

³ Simply put, the medical model treats disability as a problem of the individual that has been caused by trauma or chronic disease and that can be healed through rehabilitation provided by experts. By its very nature, the medical model often labels and stigmatises people, because a condition first has to be identified if the person “is to be healed”. In the social model, disability arises as a result of the social structure, superstitions, and a lack of access to the physical and intellectual infrastructure.

⁴ For the results, see www.coe.int.

⁵ www.independentliving.org

long-term goal than to back off by agreeing to lie, even if this would have brought me greater recognition (“The person who withholds information is an accessory to the crime”). But I was not the only one to feel discriminated against by the working group. An even greater problem was that the other people involved did so too.

A surprising story...⁶

On completion of the working group’s initial phase, NGOs were called to Bonn to give their opinions and to be consulted (NGO hearing). Having listened to the representatives of eight organizations of people with disabilities outline their view on achievements since at the previous NGO hearing, the chairman of the working group proceeded to criticize and correct their appraisals. This caught the attention of the representative of Disabled People’s International, an intelligent and astute British gentleman in a wheelchair. He waited until the afternoon session, before tackling the issue:

“Mr Chairman, please tell us why you always try to correct us each time we speak?”

“You misunderstand me, Sir. It’s not like that at all. I merely interpret what you have said.”

“Well, it seems to me this committee had had an opinion on everything even before you invited us to come here.”

“It’s not like that at all. If this had been the case, we wouldn’t even have invited you here.”

Blood rushed to the face of the NGO representative. He closed his memo pad and, without saying a word, rolled out of the chamber in protest. The representatives of the various disability organizations were not only treated like scenery, they were also humiliated. They were told, like children, where they were going “wrong”. In reality, however, they are the principal experts on the issues they face.

The analysis, which served as a background study, was rehashed by the Council of Europe without any major amendments in 2003.⁷ The focus of the new publication was once again constitutional law, which is completely irrelevant to the original issue. Nevertheless, the editors of the publication had no choice but to mention the European Union’s adoption in the meantime of a secondary legal document binding on its member states. The document in question was a directive (see below) banning the discrimination of people with disabilities. (As a side-point, my text is treated in Austria as one of a collection of texts on anti-discrimination relating to people with disabilities,⁸ although this pales in comparison to what then followed.)

Positive developments

In the winter of 2003, I took part in the European Social Charter Government Committee meeting at the Council of Europe’s human rights offices. I met the same colleague who had told me some years before why the working group would not accept me. I was pleased to relate to him my experiences on that particular day: The European Committee on Social Rights, which undertakes the legal monitoring of the Council of Europe’s international agreement, the European Social Charter, only considers a member state to be in compliance with Article 15 of the Charter if it formulates the rights of people with disabilities, that is to say, if the member state has its own anti-discrimination legislation protecting the rights of people with disabilities. This had been the aim of our efforts in the working group several years before. And this is what the highly esteemed judicial body had adopted as its own idea, subsequently demanding compliance from member states.

⁶ I cite this case, although there were several similar instances. According to one contributor to the working group, unemployment is significantly higher than average among people with disabilities because they do not like working.

⁷ <http://www.coe.int>

⁸ <http://bidok.uibk.ac.at>

1998: ACCESSIBILITY, OR THE PARTIAL SUCCESS OF HUNGARY'S EQUAL OPPORTUNITIES LEGISLATION FOR PEOPLE WITH DISABILITIES⁹

During the drafting of legislation, all those involved (people with disabilities, government officials, representatives of the NGOs, and other experts) understood quite well that the provisions on accessibility—see Closing provisions, Section 29(6): “Accessibility to buildings existing at the time of proclamation of the Act shall be effected gradually but no later than January 1, 2005”—were likely to become the Achilles heel of the Act. Not surprisingly there was little success in backing the legislation up with significant funds. When the so-called regulatory concept—a document indicating the probable content of any subsequent Act—was drafted, the Ministry of Welfare and the government spectacularly withdrew. In each committee they voted against the bill introduced to Parliament by Gabriella Béky and György Szigeti. (It was then that the government and the system of public administration understood the enormous cost of providing accessibility, an area that had been neglected for decades.)

The government failed to support the legislative bill during the parliamentary debate. This led the National Federation of Associations of People with Physical Disabilities to begin a campaign of collecting signatures in favour of the bill. The 130,000 signatures collected exerted a positive effect on legislation.¹⁰ This step marked the coming of age of the disability movement, despite the fact that it was motivated by political factors rather than the will of the movement itself. For the first time, people with disabilities and their organizations felt strong enough to step out from behind their shields, which had been protecting them for decades, and to turn against the government in power for the sake of their common interests.

Nevertheless, their firing power was quickly exhausted and the movement gradually abandoned the struggle. The next government was thus able to disband the team of two that had prepared the legislation (Mihály Kogon and myself) and to remove the issue from the agenda. And yet there would have been much to do, since a key aspect of the legislation was the formulation of a ban on discrimination against people with disabilities and the introduction of sanctions relating to this ban. This was finally codified in Section 27 of Chapter VIII of the Act—Protection of the rights due to the disabled persons and the body responsible for the tasks arising out of this legislation. The text of Section 27 reads as follows: “If someone is discriminated against because of his/her disability, he or she shall be due all the rights that are directive in the case of a violation of rights of the person.” This is a reference to Sections 76 and 84 of the Hungarian Civil Code. Until the adoption of Section 27, disabilities had not been covered. The provision means that if accessibility to a public building is not provided for in accordance with the law and a person with a disability cannot, as a result, enter the building, then this would be considered illegal discrimination of a person with a disability. Thus the provisions of the Act can be used against a body that fails to comply with the law. When the bill was being drawn up, we hoped it would ensure the automatic monitoring of its own provisions. But this did not happen: just two civil actions were launched in the course of subsequent years.

The fact that the movement gave up the fight (which is further evidence of its relative immaturity, since the signature campaign had been strongly motivated by politics—a fundamental mistake) meant that nobody was left in the ring. Meanwhile, the highly respected ombudsman Katalin Gönczöl established in a report that if the process of providing accessibility were to continue at the same rate, it would not be accomplished by the deadline of January 2005 and might possibly take as long as 150 years. Her report failed to spur the Government into action. Thus, in late 2004, the Council of Disabled People's Organizations and Dr. Lajos Hegedűs, chairman of the National Federation of Associations of People with Physical Disabilities began “tough negotiations” with the Government concerning the deadlines as well as new legislation on their amendment. Such efforts were commendable, but rather late in coming. The amendment was drafted and subsequently adopted. In the mean-

⁹ www.foka.hu/alapitvany

¹⁰ It is no accident that the Disability Studies Handbook contains just one reference to Hungary (Albrecht, Seelman, and Bury 2001, 552)—to the collecting of these signatures.

time, the Equal Treatment Authority published a progressive legal interpretation in May 2006,¹¹ while requesting the opinions of voluntary organizations and experts. The President of the Republic expressed disagreement with certain aspects of the legislation. At the time of writing, we are awaiting the final appraisal.

To summarise:

- NGOs have been involved throughout in the drafting of legislation;
- when the struggle began, the movement was fully involved and took a stand: it collected signatures;
- when the struggle needed to be continued between 1998 and 2004, the movement was largely absent and consented to non-action in the field of accessibility.

Our achievements in connection with the act and accessibility in general were made possible by the disability movement. At the same time, our shortcomings were also the movement's shortcomings.

2000: THE EUROPEAN UNION AND THE PROVISION OF ACCESS TO EVERYDAY CULTURE

The European Union as a motor for change The persistence of discrimination underlines the importance of the social and legal protection mechanism. This is because, ever since the Treaty of Rome, Europe—the whole of the European Union—has been founded on a problematic political philosophy. The hidden prerequisite is that pluralist liberal democracy should provide everyone with the opportunity to take part in politics, but that it is up to the individual to decide whether or not to make use of this opportunity. This seems to suggest—albeit in a far broader context—that we should support the medical model cited above. And yet this is a basic error. Those who are marginalised and ostracised or who lack the resources needed for survival (including people with disabilities, other discriminated persons, and members of ethnic minorities, etc.) number in the millions, and they are restricted in their social rights even today. Western and Eastern Europe differ in terms of the extent of this problem. Even so, it would be a mistake to say that such problems are the consequences of “people’s own decisions” or the result of circumstances of their own making. On the contrary, people with disabilities are substantially limited in terms of educational, cultural and career opportunities. Poverty and a lack of education are passed on from one generation to the next. The channels of self-advancement open to other people remain closed to them.

Such discrimination is obviously not simply the result of discriminatory action on the part of the government but the consequence of society's self-reproductive mechanisms. The crisis in Europe's social fabric raises the question more compellingly than ever before of how to create a real political community. The European Union has been forced to confront these issues. This is mainly because people with disabilities are a major pressure group within the European Union. The issue is of increasing importance despite the fact that poor funding has made the implementation of their rights more difficult to achieve. This is true despite the fact that the text of the original Treaty of Rome fails even to mention people with disabilities. Disability started to become a major political issue in the late 1970s and early 1980s. Characteristically, even as late as the 1940s, Beveridge was still arguing about whether or not people with disabilities could/should be employed. The original English term “disabled” means unable to work or sustain a family, etc.

In Europe, the 1970s saw the international non-governmental organizations (INGOs) of people with disabilities begin to place pressure on the “social policy” of the broader community. Possibly the most important of the various organizations representing people with disabilities is the European Disability Forum, an umbrella organization. Changes in values, attitudes and notions concerning people with disabilities are largely due to the Forum's efforts in the field of human rights. Thus, from the mid-1970s onwards, the struggle against social inequality as well as efforts to promote the social and economic integration of people with disabilities gradually became Community political objectives.

¹¹ www.egyenlobanasmod.hu

Further positive developments at European Union level

The issue was not just one of social justice but also one of economics, since purchasing power and the labour force were/are important resources in terms of Community economic development. European Union law also had to reflect the changes in attitudes. The breakthrough in European law came in 1997. The most important element of the new Treaty of Amsterdam was unconditional support for human rights. Indeed, the principle is repeated several times in the text of the Treaty of Amsterdam. The struggle against all forms of discrimination and for the full equality of people with disabilities led to the insertion of the following broad interpretation into the Treaty of Rome as Article 6a:

“Without prejudice to the other provisions of this Treaty and within the limits of the powers conferred by it upon the Community, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.”

Throughout Europe, people with disabilities and their organizations welcomed these developments. They believed they would no longer be “invisible citizens” since the cited provision had extended the ban on discrimination to incorporate discrimination based on disability. Several member states had already given a broader interpretation in their domestic law to the ban on discrimination based on gender. The movement of people with disabilities was equally enthusiastic about the adoption of Council Directive 2000/78/EC of 27 November 2000, which established a general framework for equal treatment in employment and occupation.¹² The new directive reflected the change in the provisions of the Treaty of Amsterdam, establishing a general framework for equal treatment and banning discrimination based on disability at the workplace and in employment.

“Thus, within the Community, discrimination based on religion or belief, disability, age and sexual orientation must be banned in the areas covered by the directive ... With regard to disabled persons, the principle of equal treatment shall be without prejudice to the right of Member States to maintain or adopt provisions on the protection of health and safety at work or to measures aimed at creating or maintaining provisions or facilities for safeguarding or promoting their integration into the working environment.”

AUGUST 2006: THE UNITED NATIONS

Preliminary summary of about four years of work

There are few more important achievements in disability affairs than our achievements of late August 2006. After considerable preparation, the world’s first universal international draft agreement on “the rights of people with disabilities” (hereinafter the Draft) was elaborated under the auspices of a UN ad hoc committee designed for this purpose.¹³ It will soon replace the General Assembly’s decadeold “Standard Rules on the Equalization of Opportunities for Persons with Disabilities,” a document that was not binding on states.

Initiated by Mexico five years ago, preparations for the draft have been characterised by intensive lobbying on the part of member states, groups of countries, and international NGOs, including the International Disability Caucus, IDC. The process culminated in the two-week session held in August. Despite criticism and reservations, the international disability community naturally considers the draft to be a great achievement.

Preliminary developments within the United Nations

The Universal Declaration of Human Rights was proclaimed on 10 December 1948. Wide in its scope, the declaration did not specifically refer to disabilities.

¹² Council Directive 2000/78/EC of November 27, 2000 establishing a general framework for equal treatment in employment and occupation.

¹³ For the text adopted by the UN General Assembly, see the UN website: <http://www.un.org>.

During the first post-war decade, the UN Secretariat and the Economic and Social Council urged the provision of programmes for people with physical disabilities as well as for blind and deaf people. In 1950, for instance, the Social Council debated two reports on the rehabilitation of the handicapped and the blind.

After several conferences on the matter, in the 1960s the UN began to monitor rehabilitation systems, programmes and organizations in member states. In 1969, the General Assembly proclaimed a declaration on Social Progress and Development, Article 19 of which mentions health, social security and social welfare services, as well as “appropriate measures for the rehabilitation of mentally or physically disabled persons.”

On 20 December 1971, the General Assembly issued the non-binding Declaration on the Rights of Mentally Retarded Persons. This was followed, on 9 December 1975, by a declaration on the rights of people with disabilities. The year 1981 was declared the “International Year of Disabled Persons” (in Hungary it was referred to as the “year of the disabled”). This was followed by the Decade of People with Disabilities (1983–1992).

In 1982, the General Assembly adopted the World Program of Action concerning Disabled Persons. In the course of 1992–1993, an ad hoc working group based at the United Nations Office at Vienna produced, in the course of three sessions, an international document entitled “Standard Rules on the Equalization of Opportunities for Persons with Disabilities” (United Nations General Assembly resolution 48/96, December 20, 1993).¹⁴ Hereinafter the document will be referred to as the Rules.

The process of drafting the document

The need for such a document was first expressed in the declaration of the UN Conference on Racism and Xenophobia, which was held in South Africa in 2001. Support was greatest among the developing countries. The developed countries anxiously noted that the provisions would overlap with the terms of existing human rights treaties. These two separate positions were present throughout. In terms of disability affairs, the developing countries were more progressive than the developed countries, the latter employing rather bureaucratic arguments and strategies.

The Comprehensive and Integral International Convention to Promote and Protect the Rights and Dignity of Persons with Disabilities—United Nations Resolution 56/168, adopted by the General Assembly on 18 December 2001—established an ad hoc committee. The committee’s first session was held in New York between July 29 and August 9, 2002. At the first meeting of the committee, in which all UN member states participated, in order to clarify what steps had already been taken in the field, the General Assembly examined all documents concerning the rights of people with disabilities and issued by the United Nations Commission on Human Rights (CHR) and the Commission on Social Development (CSocD). It is worth noting that Mexico arrived with a concrete draft text, which was not supported, however, by most developed countries.

At the outset and subsequently, the European Union presented a very generalized and weak position.¹⁵ The proposals were of a lower standard than the existing system and application of law in the member states. The document bore witness to a failure to clarify the issues. Among other things, it emphasized that the new international convention “should not prevent” the further development of the Rules... It took some time before the Europe Union clarified its position. Some delegates—probably expressing their own opinions rather than the official view of their governments—questioned the necessity of the Convention. Their fear was that representatives with disabilities would become so numerous that there would be insufficient space in the chamber. Another fear expressed at the official level was the following: “The United Nations human rights provisions are sufficient. Even the treaty on women’s rights was unnecessary. The present treaty is even more unnecessary than that one was, and if we continue along this road then we shall soon be sitting here devising an agreement on the rights of gay people!”

¹⁴ <http://www.un.org/ecosocdev/geninfo/dpi1647e.htm>

¹⁵ Elements for an International Convention: A/AC.265/2003/CRP.13/Add.2.

From the outset, the international NGOs were also involved in the work of the ad hoc committee. The world has changed dramatically over the past fifteen years. When, during a four-year period beginning in 1991, a committee of which I was a member drafted the amended European Social Charter under the auspices of the Council of Europe, the only people permitted into the chamber apart from the delegates of governments were the representatives of European workers and European employers. In 1999, on publication of the European Union's Charter of Fundamental Rights, representatives of NGOs were far more numerous than representatives of governments. Taking into account the original position of governments, the draft would have been far less effective than the final version forwarded to the General Assembly. The physical presence of several hundred people representing civil society—many of whom with serious disabilities—changed the rules of the games. Such campaigners made it clear that the upcoming convention was about them and addressed to them. By constantly citing the principle “Nothing about us without us!” and by sticking to their guns, the representatives of the NGOs ensured that the vast majority of the positive and progressive elements were included in the draft. A good example of such civil courage is an event that initially caused great surprise, then uproarious laughter, and finally a loud handclap. In 2004, the third year of the drafting work, the leading official of the World Blind Union, Kicki Nordström handed out to delegates a one-page document written in Braille during a brief afternoon break in proceedings. The sheet of paper was there on every table, together with two other proposals not written in Braille. The moderator of the session, a New Zealander, indicated in the debating chamber that while he could read the two typewritten proposals, the one in Braille was incomprehensible to him. He then asked the representative of the World Blind Union to make known the content of the Braille text. The representative of the World Blind Union, having grown tired of receiving so many texts that he and other blind people could not read because they were not available in Braille, said merely the following: “We have made our proposal public; we now welcome your comments.”

Historic results

The work ended with two achievements of historic significance. The first achievement was that the ad hoc committee forwarded the draft—the most debated of all time—to the UN General Assembly. The second was the establishment of the International Disability Caucus, IDC, as a body that will lobby at the highest levels in support of people with disabilities.

CONCLUSION: THE PAINFUL LACK OF AN ELITE

Disability means limited capabilities and functions; it does not hold out the prospect of an easy life. The quality of life can be made worse by the absence of proper access in the physical and intellectual environment—which often leads to such related factors as unemployment, poverty, discrimination, prejudice and pity. It is the community that can do the most to solve such problems. Meanwhile the effects of such problems can be limited or prevented by targeted and well-structured government measures and programs. However, community solidarity and government action do not come free. Events in Hungary over the past decade and a half have shown that there is no such thing as a “disabled-friendly government”. Governments come and go. They have various divergent goals and promote ideas that are sometimes good and sometimes bad, reflecting a higher or lower degree of solidarity. In the meantime, the limited resources are divided up among rival groups and sectors. Those areas with strong lobbying power or better contacts come out on top.

In Hungary, the most important lesson of the past fifteen years in the field of disability is that progress—even the smallest achievement—has to be forced out of the government and other authorities. The political community will not come into being by itself. People must fight for resources and for solidarity. Potential partners in this struggle, with their experience and knowledge, are experts working in the field, volunteers and the NGOs. Ultimately, however, success will not depend on them. They are not capable of showing sufficient strength towards society and the government, and they do not have enough credibility. Success will be achieved not by them, but in an odd way by people with disabilities—those having the greatest difficulty in realising their interests. It is only by sticking together and by taking a common stand that people with disabilities will achieve significant results. (A pos-

sible strategy is to send ahead one or two partisans who may win a battle—as in the case of the adoption of the Act. But the task we face is not to win a battle but to be victorious in war. And at the moment—think about the case of access—the war is being lost.) Consequently, the key to success in the future is the movement. But it cannot—and does not—work without its own elite. And this elite needs to be university-educated, multilingual, skilled and representative of many different groups of people with disabilities—the whole community of people with disabilities. It should be capable of taking a united stand, of acting strategically, and of co-operating as a virtual community. The most important task facing Hungary in the coming decade is to establish an elite capable of leading the movement. If possible, this should be done in co-operation with the major organizations, other volunteers, the National Council on Disability, and government bodies.

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with Zsuzsa Csató

The interviewee, Zsuzsa Csató, is an affected parent; her daughter, Borcsi, was born with Down's syndrome. The birth of her child and the lack of provision for people with disabilities completely changed her life. As an affected parent, she became a supporter of voluntary initiatives—which are so important for disabled people—and an innovative expert on establishing new services.

Nobody with a life as long as mine will have a short biography. This is a basic fact. Until Borcsi was born, I was a biochemist and I loved it. Messing around with test tubes, I had nothing to worry about. There was something to worry about, but, looking back, it seems pretty ridiculous; the most that could happen was that a test tube got broken or a chemical substance was lost, or that something didn't work out. When Borcsi was born, I thought I'd be going back to work after six months. Within a very short time—actually, in the very first week, since the nursery told me immediately—it became clear that I couldn't seriously think that I would. The diagnosis was made; I won't tell that story—anyway, it is the same for all parents. Everyone has feelings of no longer being able to cope, of life being unfair. And then everyone starts doing the same things, at least most people do, trying everything. That's really what happened to me as well, so that when Borcsi was a month old, I went to the first such parents' meeting—when everybody around me had collected together material about what Down's syndrome meant. Then, when she was one to three years old, we tried to do everything possible for her in Hungary and abroad. Basically, we tried to do anything that would not cause harm. This lasted for quite a long time, and even now I think that if a person finds her or himself in the same boat, or gets bogged down in the same way or in a similar manner, then the most important thing she or he can do is to try everything rather than sit doing nothing—if this is in the person's nature and the opportunity is there. Then, when she [Borcsi] was three or four, she went to kindergarten. Crazy as I am, I thought the kindergarten would take over the task of bringing her up. Three years later, she knew a lot less than at the kindergarten, which was a special education kindergarten with an entrance exam. We'd already tried more than 30 kindergartens, where we'd been told that the reason they couldn't accept a child with Down's syndrome was not because the child required additional attention but because other parents would remove their children. I think even today this is what private kindergartens fear, although they won't admit to it. The situation has improved a lot in the meantime because now children with Down's syndrome are the favourites among people with disabilities, because they have a good disposition—this is the real reason. The situation has improved, but there's still some way to go.

This is how I got into the movement. I tried to go back to work, but it was very hard, physically hard. If you're taking her to physical therapy and development classes, and you live far away, then it's quite difficult to organize it all. When Borcsi started going to kindergarten, I went back to work, still as a biochemist. And roughly one and a half or two years later, I suddenly realized it wouldn't work. I had a constant temperature and was feverish; my body simply couldn't take it. By that stage, I had divorced, having been left with the two children. And I had no car. Actually, I then started to move in two directions, because, firstly, I couldn't keep still and, secondly, I really wanted to give both my daughters everything. This was one side of it: how to give Borcsi more. At the kindergarten, several other parents and I started organizing swimming sessions.

I cannot and never could just sit around. It's impossible in Hungary to organize a group of parents by saying "come on, I'm going to organize you." We were talking at the side of the pool, and one of us would go off shopping, while the other looked after her or his kid. It was spontaneous. We're brought up to think that an individual cannot take time to look after her or himself. Unless you offer something—at least formally—that helps the child, then the parent will feel guilty. To get a group of

parents together, you need a reason, a pretext. To admit that it's good for you, rather than good for your child, is something shameful even today. So this was one of the directions. After three of four years (in about 1986), this developed into the Hungarian Down Foundation, which I headed for five years; it wasn't as famous or as large as it is now. No, it was really tiny then. It comprised a parents' group, a swimming session, and a couple of other activities. In 1990, I went to study in the Netherlands for a year, and when I came back the person who had led in the meantime said that she liked doing it. We tried to do it together, but it didn't work. Our aims were the same, but the means were quite different, so we went our separate ways.

The training course: for most people, it was a departing gift from the outgoing regime. Basically, a load of people were sent abroad to learn English. I could take Borcsi with me; it never even occurred to me to leave her here. I simply wouldn't have gone. It was the fourth study grant I'd won; the three preceding study grants had been withdrawn when they found out I had a child with Down's syndrome. The French and Canadian scholarships had been withdrawn. I couldn't go, they said, with a child with Down's syndrome, because the state wouldn't agree to it. This had been their reaction. The French one was a study grant for a biochemist. I realised that what made them so afraid was that many people try to have heart surgery done abroad. Even the Dutch made me sign a paper that I would bring her [Borcsi] back to Hungary if she needed any Down-related healthcare. Not if she got pneumonia, but for everything else. There is some justice in it; it's an honest deal, because it really is expensive. But Borcsi's already had heart surgery; she has a small hole on her heart, which we have looked at every year. The other front, which arose out of this situation, was that I had to give up the biochemistry game. Work in the laboratory was all about experimenting, and this takes a lot of time, and I always had to get up and leave—when I had to go and get my child. So I could only take on work, like, for instance, pharmacy control, with fixed hours of work. You check how much iron or something the substance contains... it's very dull. Then I organized a conference, translating and editing a conference brochure. Subsequently, I went to work for [the magazine] *Élet és Tudomány*, as a journalist. Then I worked for Andrew Czeizel,¹ who took me on because I spoke three languages and I could help him translate and read about genetic diseases and other disorders. Someone was needed to type up the data forms, and to get parents—those coming to him [Czeizel] for genetic advice—into filling out the data forms. I learnt what one could possibly expect from such a system. And where I was working, one could see psychiatrists, neurologists, other doctors and specialists. I saw what they could deduce from books and what they had no clue about. Their views varied. I met one of my best friends there, a rather short woman; together we founded the Society of Short People. Then the Hungarian Down Foundation was formed there, and thereafter I came to work for the National Health Protection Institute² [NEVI], where I stayed for 13 or 14 years. While working for NEVI², I established the Information Centre for Self-Help Groups. At the time, I didn't understand why self-help groups in Hungary always develop into NGOs. Now I do understand. There's so much to do in this area that if someone is active enough to join a group, then she or he is bound to want to change the world. All the groups changed into NGOs.

As soon as this became my thing at the NEVI too, and I had a life which involved providing services for the mentally retarded, and to parents, children and experts in this field, rather than being concerned specifically with Down's syndrome, I could no longer separate my working life from the people that I met outside of work. Because these groups also met up outside work; indeed, for the others, this was not their main job. The greatest difference from today's situation was the great longing for some kind of community, for being able to sit down from time to time with similar people. Most of them could not talk about their problem. They didn't like to talk. But the feeling of being in a place where the stigma was gone for a few hours, because the stigma did disappear—this was a very good feeling. It's not really comparable with what I saw later at Alcoholics Anonymous, because ceremony was given such a big role there, while it was almost absent in our groups.

What tended to happen was that someone came to me saying that she or he was looking for such and such a group, and it turned out there was no such group, and if the person had the strength of will to go through months of looking for other people—which never just happened on its own, then the

¹ A well-known Hungarian professor of genetics.

² NEVI (National Health Protection Institute), a government funded body.

groups were formed. I could assist them in the sense that we could provide space and advertise the group, and that the NEVI was a health-related institution. If it was chronic illness and disability, then we had the contacts and knew how to find these partners. But I wasn't involved in the organizing part of it, in deciding the nature of a particular group, or who should join it or who they should want. I had no wish to be involved in that.

The important thing was to have an NGO that was no longer just an association of people but an organization providing services. In fact, two things were important: the first was that there should be some kind of kindergarten, or some kind of service, one day or half a day per week; and that transport would be organized. A kindergarten had to be formed, because this is what families needed. Moreover, the political system now made this possible. On the other hand, there was the protection of interests. And the protection of interests gradually changed into demanding the price reduction of a single medicine, a miracle medicine, so that it would be accessible. It was 30,000 forints, and the aim was a price of 10,000 forints, and they managed to achieve this. And on the day they achieved this, the chairman of the NGO stated that the medicine is very expensive. And then I felt I didn't want to be a part of this, because nothing would ever be good. The OEP³ (National Health Insurance Fund) was quite right to do what it did at the time in ensuring that there was hard evidence that a medicine worked before hundreds of millions [forints] were spent on it.

In my view, a community arises when an organization or a conscious group of people, sharing the same fate, search for each other. And this is what happened with other illnesses—the chronically ill, adults sought each other out—but not in the case of the mentally handicapped. In theory, this could be the case with the parents too—10-15 years later I saw that there were groups of parents that I could describe using this word. Because I had a look at how this happens in other countries; and everywhere they used “techniques”. I can't call them anything else: for instance, a lecture series or some other pretext for the group to meet. Otherwise it didn't work. For instance, for asthma sufferers, there was an exercise lesson. These things are crucial in keeping the group alive by means of various things that are important to the people in the group. And my point is that I probably used this word because it was not conscious. It hurt me greatly to realise that I was getting out of there, or that I believe it is important that there should be a community of fellow sufferers, and they just spit on it. For them it was much more important to talk about their illness or about their husbands, and it was important for them to be together here. But two things were much more important, one of them was that 100 times as many people could have come than did come, who had a need for awareness. People really do find it difficult to open up. This was one of the things that happened. The other thing was that there is a very strong tendency in Hungary to turn into a service provider. I think this is because large NGOs were established in foreign countries and they became bureaucratic. And people realised that personal relations were being lost, and how good it would be to have small groups. And in Hungary there were no large associations or large organizations. There was the Trade Union, but I wouldn't call it an organization in this sense. And when these small groups had been formed, the need arose for services that only large organizations can provide. For example, putting together books, forwarding information, or nowadays making a website... but at the time this was unheard of. There were newspapers. Many of them had newspapers. There were almost always lectures at the regular meetings; the best example is the Diabetics Club. NGOs were formed. There were at least 20-30 or perhaps even 70 NGOs that were national and which incorporated the chronically sick or people with disabilities—organizations of varying significance and strength. But just 20-30 of these were started at the NEVI, or were given space there. And there really was a need for an institution offering assistance in this field.

The effect of Hungary's political changes (in 1989/90) was that before I went to the Netherlands, there had only been the Down Foundation, and there was nothing else in my life. I didn't even know of other organizations. When I was abroad, I had a look at everything. In the Netherlands, we went every weekend or every second weekend to look at institutions or organizations. It was on this subject that I wrote my thesis: Parent groups in special schools. It was a conscious effort, and when I came home and was already working at the NEVI, the political changes had already taken place. Another important thing I've not yet mentioned is that in an odd way the history of these NGOs was linked with democracy. But not in the manner it is described in the great [historical] works, that is to say, that

³ OEP (National Health Insurance Fund), a body that pays for healthcare for insured persons

the law on associations was adopted, and then people were free to form such NGOs. Of course this did play a part—but I didn't see it like this. The way I saw it was that people started to be more active and speak more freely. At a certain point in time, it just started to open up—this is not a good word for it either, that their mouths or their gums opened up, but some kind of opening did begin. I think it happened first at church—at various sites—I perceived it in the churches. In about 1985–1986, I went to the church on Gábor Szarvas Square, to Father Kozma—even though I'm a Jew. But I was looking for community, and there was no community, and we went there; every two weeks the parents of mentally retarded children, the kids themselves, and the assistants met up there. And I really liked it at the beginning—for about two or three years. We celebrated birthdays, we went on outings or we chatted. By the time I left three years later, there was a Bible study each second week and a mass the next. So it wasn't right for me; they took Borcsi along, I was grateful, because she needed community. There was no other community. There really wasn't. After my divorce, I had two choices: I could either stay at home—like most people do in this situation (they take the child [to kindergarten], bring her home, go to work and that's it); or I could try to get out as much as possible. I really believe we were right not to stay at home. First, in a community... I also thought—like everyone else did—that everything would change overnight, and wow, how good it was going to be. First, I got to know a great many people, which was a joy for me, and heard of their goals. I wouldn't separate the movement for NGOs and the development of communities of people facing the same problems from the establishment of democracy and the political parties. For, to my surprise, I found that when the parties were formed the people who were full of wanting to do something, including some who wanted to make a career, appeared in the political parties. I really think this is now history, but it was very interesting to watch. As they withdrew after the initial enthusiasm and gave up believing they would find the purpose of life and their own self-realisation in a political party, a second group appeared in the NGOs. In the leadership of the NGOs, you could almost see a second party establishment system just several years, two or three years, after the formation of the political parties. The people who had been active there [in the parties], now became active here [in the NGOs]. The positive side of this was that they wanted to do some good, but felt they couldn't do it there, whereas they felt they could do something more worthwhile here. What was less positive was the appearance of the hacks. 'I just want to be boss, it doesn't matter where.' Rather unsettling phenomena surfaced in the movement. While there were some committed people who were willing to make sacrifices, this is all you can say about how democracy works here in this country. In my view, the whole generation tends to lack the art of co-operating in thought and deed. So what almost always happens is that there is a person who tells people what they want, and, in my view, that's not what they were thinking of. Think of how many one-man NGOs there are. There is no action, no service provision, no interest protection, nothing. At the same time, I admit it's just as well there are some NGOs.

Membership of the European Union and EU funds raise the possibility of an improvement in the situation. I certainly am happy to hear—and so are others—that now hundreds of millions of forints can be obtained rather than just five million forints. But in reality, I don't see it. I read in the newspapers that a home has been set up or that the Care Foundation [Gondviselés Foundation] has just won 100 million or, I think, 88 million, whatever, that a new kindergarten is going to be started. But I also know that the kindergarten already existed—it was at another site and was not owned by them. And this means a lot to the foundation. And that until now there were 150 square metres, whereas now there will be 200 square meters, and ten more children will be accepted. But you surely don't think that this is a real difference in quality. I don't think it is. And this was the best grant scheme there was. That is to say, of all the grants on offer for day care provision, this was the best in terms of quality. Not the scheme itself, but the project as such. And concerning the other schemes too, I feel that two things are clashing: one of them is that funds have to be obtained from the EU. Of course, I say this too, but the skill of obtaining money and the skill of improving the quality of life of people with disabilities are two different skills. And it's not good if it's in the same organization and in the same hand. And so we operate separately. There will be people who get the EU funds and who use them for whatever purpose. Of course, they will build, but one cannot be certain they will do so in a way that is best for us. Yet we only have one life. That is to say, things will certainly be better in 20 years time, but I'm rather unimpressed by that. And on the other side, there are experts who know what they would like to do, but such people don't know how to apply for funds; they're neither managers nor leaders. They know what makes people feel better in this world and what can help them to become mobile on their own.

This is a very important skill, and it would be better perhaps if we would finally acknowledge the necessity of both types of knowledge, and that both are needed in order for us to move forward together, and that the system does not allow these to work together. The funds that would assist in this area are not available. Theoretically speaking, the EU's project preparation facility, or PPF⁴ helped, but even during the preparation stage, those who were unable to write applications were pushed out. There was another PPF scheme, but it was hardly noticeable. In addition, there are two other factors that make it very difficult to predict how much the funds will help. There will definitely be benefits, because any financial input tends to benefit a system. But there are two very critical aspects. The first is that these are always just projects; they always start something, and it's impossible to see how you will sustain them. And this can be perilous. The grant applications always require that a project be sustainable, but if there are no public funds or anything else behind it... and there are none... then we can only do it by cheating... They simply don't allow you to move forward on the basis of the real state of affairs. This is one factor, making it very difficult to sustain anything. The other factor is that our priorities do not reflect our needs, but whatever the priority is according to the EU. And this is not the same thing. I accept that jobs are very important in the EU, and I also accept that jobs are very important in Hungary too. But they had the infrastructure before they started, whereas we don't have it. And this is a very big difference. I'm not saying that employment can't be used to solve many things, but that we have to build according to a reverse logic. We're not building in line with short-term and long-term needs. Instead, the main priority is to meet the EU's expectations concerning jobs, and whatever you can squeeze into that. And this is not a good way of thinking, it's not the most efficient way. Of course, it is [a good way] as far as obtaining money is concerned. Even so, I say that if a hundred times the money comes in, then, sure, let's go and get it. Sure, the money is needed. The other factor that makes it very difficult to make good use of EU funds is our institutional system, of which we should be ashamed. The institutional system for disabled people still comprises the enormous institutional homes. Despite the fact that since 1990—for 20 years—we've been talking about normalisation and integration, none of these institutional homes has been closed down, not a single one. We've built I don't know how many [institutional] homes for 200 people, and they're beautiful, quite beautiful. I know that in such small villages or towns, there is community and there is life. That is to say, the quality of life won't necessarily be better just because something is family-sized. It will be another kind of quality of life, but not necessarily a good one. Even so, it seems such large institutions are the ones capable of applying for funds at the moment. And it's clear, quite clear that these large institutional grants are strengthening the large institutions, rather than breaking them up—that almost never happens. I'm exaggerating a little, because occasionally they do buy a house [a residential home] outside. But I don't think there are more than 10 such houses in Hungary.

In the field of childcare, Hungary's political changes took effect with the passing of childcare legislation. But this has not happened in the field of care for the disabled. We do have a disability law—or rather an equal opportunities law, which lays down the need for integration and normalization. But this has not been accompanied by money, a saddle-horse and a gun. We've merely laid down the principles, but the grant schemes are not devised in accordance with the principles, and their evaluation is certainly not done in accordance with them. And there is nothing that might help to change the system. The following is a case in point, which would never occur to you unless you had faced it in despair. Officially there are about two thousand people living in residential homes in Hungary. There are 15,000 people with disabilities living in institutional homes. 14,800. And at least half of these two thousand people are in residential homes on the sites of institutional homes. In my view, such homes are not residential homes, rather they are merely a better form of institutional provision. I think the system is a self-preserving one. And it will remain so, until we can change things in a real way. Another example: legislation prescribes (this includes the law on equal opportunities and the one on equal treatment, both of them) that the country's institutions should be accessible to disabled people, physically and in terms of communication, having special regard for the social sector. But the social sector includes the institutional homes, and making them accessible will cost billions of forints. This is money down the drain, because, using the same funds, we could easily build new, smaller buildings,

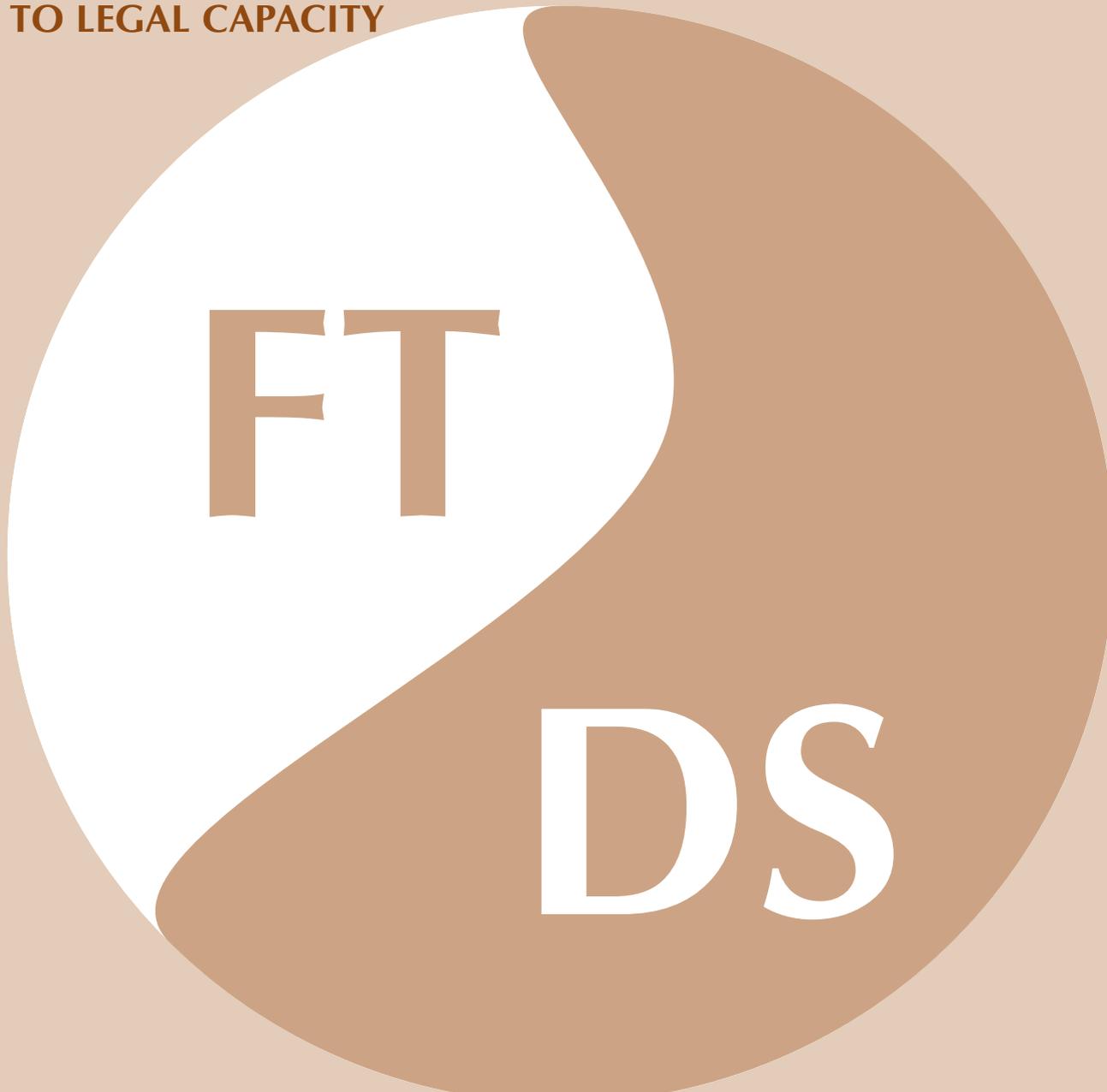
⁴ A facility that assisted organizations in obtaining European Union funds. Consultants provided support to NGOs and local governments as they applied for grants.

or buy dwellings in villages. And then in place of the billions, we'd have small accessible houses, and the cost of making them accessible would be so much less. Instead, we're literally pouring in the money. We are meeting the requirements of a piece of legislation—I believe, truly believe, in access for the disabled, but the price of meeting the requirements is that we are stabilizing the system, because we have poured additional billions into it. And the upcoming development plan states the same thing yet again, namely access for the disabled to social services.

THE NEWLY REFORMED PART OF THE HUNGARIAN CIVIL CODE

Adopted by the Parliament in 2009 and will enter into force in 2010

REGULATIONS AND PROCEDURES RELATED
TO LEGAL CAPACITY



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Regulations and procedures related to legal capacity

Chapter I

The general regulation of legal capacity

SECTION 02:08 [LEGAL CAPACITY]

- (1) Everybody is a person of legal capacity whose legal capacity is not limited or excluded by law.
- (2) The person that is of legal capacity can themselves enter into a contract or make another legal statement.
- (3) The legal statement limiting legal capacity is invalid

Chapter III

Providing help with the decision-making of a person of legal age and making their legal statement

Legal institutions in defense of the person of legal age

SECTION 2:15 [LEGAL INSTITUTIONS THAT HELP THE DECISION MAKING OF A PERSON OF LEGAL AGE]

- (1) The decision-making of the person of legal age in need of support or protection because of their mental capacity, psychological condition or addiction is helped by the following legal institutions:
 - a) preliminary legal statement,
 - b) supported decision-making,
 - c) guardianship limiting legal capacity.
- (2) The legal institutions specified in Subsection (1) – when law does not prescribe otherwise – can be implemented jointly.

Preliminary legal statement

SECTION 2:16 [THE CONCEPT OF PRELIMINARY LEGAL STATEMENT, ITS EFFECTUATION]

- (1) The person of legal age of legal capacity, for the case of future limitation of their legal capacity – according to the regulations included in Subsection (5) – or, lacking it, decline in their discretionary power, has the opportunity to make a preliminary legal statement in a public document, in a private document countersigned by an attorney, or personally at the court of guardians in the interest of the expression of their intention related to their specific financial and personal relations.
- (2) The person of legal age of legal capacity has the opportunity to dispose particularly of the following in the preliminary legal statement:
 - a) they can specify one or more persons who, according to the regulations on supported decision-making, can provide support in their decision-making, making their legal statement and whom they suggest to be their guardian and substitute guardian,
 - b) they can exclude certain persons from the circle of the supporting persons and guardians,
 - c) they can initiate or forbid their being placed in a boarding social institution,
 - d) they can name a guardian for their minor child or exclude a specified person from the circle of the persons to be given as a guardian,
 - e) they can give authorization to manage their financial matters,
 - f) they can dispose of the way their movable and real properties and income are handled.

- (3) The condition of the validity of the preliminary legal statement is that it is registered in authentic records according to the content of the specific other act.
- (4) The preliminary legal statement or its part affected by the final decision of the Court – except for the case included in Subsection (5) – is enacted at the time when the judicial decision disposing of the limitation of the legal capacity of the person of legal age concerning one or more groups of matters.
- (5) In the procedure for placement under guardianship the Court – if the person of legal age has made a valid preliminary legal statement – decides on the entry into force of the preliminary legal statement or its specific part instead of the limitation of their legal capacity according to one or more groups of matters if what is included in the preliminary legal statement guarantee the protection of the rights of the person of legal age without the limitation of their legal capacity.
- (6) Following the entry into force of the preliminary legal statement what is included in it are to be taken into consideration as the decision of the person of legal age of limited legal capacity on their personal and financial matters.
- (7) The organization specified in the specific other act keeps authentic records on the data of the enacted preliminary legal statement.
- (8) The regulations of the preliminary legal statement cannot be applied to the statement regarding the rejection of benefit according to the health law.

SECTION 2:17 [IMPLEMENTATION AND WITHDRAWAL OF THE PRELIMINARY LEGAL STATEMENT]

- (1) The Court, the Court of Guardians, the guardian and the person authorized in the preliminary legal statement, following the entry into force of the preliminary legal statement – with the exceptions according to Subsection (2) – act considering what is included in the preliminary legal statement.
- (2) The Court, the Court of Guardians, the guardian and the person authorized in the preliminary legal statement cannot take into consideration what is included in the preliminary legal statement if
 - a) the person named by the person of legal age does not undertake to perform what is included in the preliminary legal statement or a disqualifying cause is stated against them or
 - b) because of a significant change in the circumstances, what is included in the preliminary legal statement would seriously harm the life, health, physical integrity or legitimate interest of the involved person of legal age.
- (3) What is included in the preliminary legal statement can be withdrawn or modified by the person of legal age of legal capacity. If the person of legal age of legal capacity makes a new preliminary legal statement, their previous legal statement is to be considered withdrawn. The provisions of the previous preliminary legal statement not affected by the provisions of the new legal statement remain in effect. If the person of legal age was placed under guardianship limiting legal capacity by Court following the making of the preliminary legal statement, the preliminary legal statement can be withdrawn by the person of limited legal capacity according to the regulations governing the making of a legal statement bound to the approval by the Court of Guardians.
- (4) To the withdrawal or modification of the preliminary legal statement, the provisions governing when making it are to be applied adequately. The withdrawn preliminary legal statement becomes invalid; and the already enacted preliminary legal statement becomes inoperative with the cancellation from the records.

The supported decision-making

SECTION 2:18 [THE CONCEPT OF SUPPORTED DECISION-MAKING]

- (1) The Court can decide on the appointment of a supporting person or persons (hereinafter together: supporter) in particular groups of matters for the person of legal age and of legal capacity, because of their mental capacity, psychical condition or addiction, in need of help, with a decision adopted during the procedure specified in the specific other act or of placement under guardianship, when they make the legal statement.
- (2) A supporter cannot be appointed in groups of matters in which the limitation of the legal capacity of the person of legal age has become necessary. The limitation of the legal capacity of the person of legal age has become necessary.

- (3) The Court – on the basis of the agreement in conformity with Subsection (4) – can appoint a person of legal age to be a supporter who has a fiduciary relation to the supported person and does not come under the scope of disqualification specified in Subsection (5).
- (4) The Court decides on the appointment of the supporter and the groups of matters in which the supported person receives support on the basis of the agreement of the supporter and the supported person made out in a public document or a private document countersigned by an attorney, or in a joint statement attesting the existence of fiduciary relation and made by the parties in front of the Court of Guardians or personally in front of the Court, during the process of being placed under guardian's custody. If the Court decides on appointing more than one supporters, for the same group of matters – if the supported person did not make a different agreement with their supporters – it can appoint only one supporter.
- (5) A person cannot be appointed as a supporter,
 - a) against who the supported person raises a protest, and in the absence of a protest, whose appointment would endanger the interests of the supported person,
 - b) who is a supported person,
 - c) who is under guardianship limiting legal capacity, or
 - d) who come under the scope of a final judgement depriving them of basic rights.
- (6) The organization that is specified in the specific other act keeps authentic records on the data of the supported persons and supporters.

SECTION 2:19 [THE PROCEDURE OF THE SUPPORTER AND SUPPORTED PERSON]

- (1) The appointment of a supporter does not result in the limitation of the legal capacity of the supported person.
- (2) The supporter is authorized to be present when the supported person makes their legal statement and promote the making of the legal statement of the supported person with advice and giving the information necessary for the supported person. The supporter signs the legal statement that was made in their presence and the supported person was assisted by them.
- (3) The support included in Subsection (2) also applies to providing help necessary to the enforcement of right of impugnation of the supported person specified in law and making the related legal statements.
- (4) If the supported person initiates a procedure to withdraw the appointment of the supporter, the Court forthwith notifies the authority entitled to keep authentic records about the initiation of procedures – in order to register it.

SECTION 2:20 [TERMINATION OF THE LEGAL RELATION BETWEEN THE SUPPORTER AND THE SUPPORTED PERSON]

- (1) The Court withdraws the appointment of the supporter, if
 - a) the supporter or the supported person initiates it,
 - b) the supporter does not fulfill their duty deriving from the agreement between them and the supported person or commits an act or behaves in a way that seriously violates the interest of the supported person, or that seriously violates the interest of the supported person, or
 - c) an excluding cause arises later that would have been an obstacle to the appointment of the supporting person.
- (2) The Court decides on withdrawing the appointment of the supporter on the basis of Paragraph a)–b) of Subsection (1) after the personal hearing of the supporter and the supported person.
- (3) The legal relationship regarding supported decision-making is terminated:
 - a) by the death of the supported person,
 - b) in the case of a specified-term appointment, by the date of maturity included in the court decision, or
 - c) if the supported person does not have any other supporting person, by the death or the withdrawal of the appointment of the supporting person according to Subsection (1).

The act of the professional supporter

SECTION 2:21 [THE ACT OF THE PROFESSIONAL SUPPORTER]

- (1) If the appointment of a supporter is not possible according to the content of Subsection (3) of Section 2:18, but the protection of the person concerned from harm does not make it necessary to limit their legal capacity, the Court – in the case the concerned person of legal age agrees – can decide on the appointment of a professional supporter in a process specified in a specific other act or with its decision made during the process of placement under guardianship.
- (2) The procedure of the official supporter is governed by what is contained in Subsections (1)–(3) of Section 02:19; to the supervision of their activity – with the exception of the provisions relevant to the report by the guardian – and to the number of the supported persons and to the exemption of the guardian, in the lack of different provision of law, the regulations relevant to the official guardian are to be applied accordingly.

Guardianship limiting legal capacity

SECTION 2:22 [GUARDIANSHIP LIMITING LEGAL CAPACITY]

- (1) The person of legal age is of diminished capacity, if the Court places them with this effect under guardianship in a specific group of matters.
- (2) The person of diminished capacity – except for right to vote – is of legal capacity in all the groups of matters in which their legal capacity is not limited by the Court.
- (3) The person of legal age is placed under guardianship limiting legal capacity by Court who, because of their mental capacity, psychological condition, or addiction or other circumstances resulting from this that hinder participation in society is not able to make a decision or act in their personal or financial matters independently or with assistance or make a legal statement and the lack of limiting legal capacity would result in their harm.
- (4) Legal capacity can be limited, if, according to the Court, other provision not limiting legal capacity would not be effective protecting the person concerned from harm. The decision on the limitation of legal capacity has to be based on a complex expert's opinion including, as circumstances require, medical, psychological examination and examination by an expert of the defective.
- (5) The person's way of communication, the hindrance of communication cannot be the reason for the limitation of legal capacity by itself.

SECTION 2:23 [GENERAL RULES APPLYING TO THE LEGAL STATEMENT OF PERSONS OF LIMITED LEGAL CAPACITY]

- (1) The legal statement of a person of limited legal capacity placed under guardianship in a group of matters specified in the sentence of the Court – if law does not dispose another way – is valid if they made it with the preliminary consent or subsequent approval of their guardian. In the case of dispute between the person under guardianship and the guardian including the case when, in the opinion of the guardian, the lack of making a statement by the person under guardianship would harm the person under guardianship, the Court of Guardians decides following the personal hearing of the person under guardianship based on the principles of unobstructed communication. The decision of the Court of Guardians substitutes the legal statement and approval of the person under guardianship and the guardian necessary to the validity of the legal statement.
- (2) If the protection of the interests of the person under guardianship and their protection from harm make immediate measures necessary, the guardian can act in the name and on behalf of the person under guardianship, make a legal statement on condition that they are required to forthwith notify the Court of Guardians. The Court of Guardians shall review the procedure of the guardian within fifteen days after receiving the notification, following the personal hearing of the person under guardianship based on the principles of unobstructed communication. The Court of Guardians cannot approve of the procedure of the guardian if the nature of the measure did not explain immediate steps, or, if the Court of Guardians decide for the person under guardianship

in the case of dispute according to Subsection (1). If the Court of Guardians do not approve of the procedure of the guardian, they also declare the legal statement of the guardian invalid.

SECTION 2:24 [THE INDEPENDENT PROCEDURE OF THE GUARDIAN OF THE PERSON OF LIMITED LEGAL CAPACITY]

The Court may authorize the guardian to act independently on behalf of and in the name of the person under guardianship, make a legal statement independently in the restricted groups of matters or single matters within the groups of matters in the procedure carried out based on the specific other act

- a) to the joint request of the guardian and the person under guardianship in the recurring matters of the person under guardianship or matters requiring regular making of legal statements, or
- b) to the joint request of the guardian and the Court of Guardians if the opinion based on complex professional examination has sustained that the guardian is unable to communicate with the person under their guardianship even with the assistance of an expert on communication with handicapped people related to the specific matter or group of matters in a way that would be necessary to the decision of the guardian related to the legal statement of the person under guardianship on their preliminary agreement or subsequent approval and the protection of the rights of the person under guardianship in a procedure according to Subsection (1)–(2) of Section 02:23 cannot be granted.

SECTION 2:25 [THE CASES WHEN THE PERSON OF LIMITED LEGAL CAPACITY MAKES LEGAL STATEMENTS INDEPENDENTLY]

The person of limited legal capacity, in the group of matter affected by limitation, can

- a) make a legal statement of personal nature to which they are entitled by law,
- b) enter into contracts of lower importance covering the regular needs of everyday life,
- c) dispose of a certain proportion of their revenue coming from employment, a legal relationship of an employment type, social security, social and unemployment benefit specified by the Court; they can undertake commitment to the extent of this fraction of income,
- d) is authorized to enforce right, file charges against their guardian in procedures in an administrative agency and court and
- e) enter into contracts from which they gain advantage exclusively.

SECTION 2:26 [LEGAL STATEMENTS THAT ARE TO BE APPROVED BY THE COURT OF GUARDIANS]

- (1) If the Court limits legal capacity related to the disposal of the property of the person under guardianship, the approval of the Court of Guardians is necessary to the validity of the legal statement of the person under guardianship and the guardian if the legal statement is relevant to
 - a) the support of the person under guardianship,
 - b) right or obligation of the person under guardianship on the basis of the right to inheritance,
 - c) taking responsibility for someone else's obligation without proper consideration by the person under guardianship,
 - d) the property of the person under guardianship managed by the guardian,
 - e) the other property of the person under guardianship of a value exceeding the sum specified in law or the decision appointing a guardian,
 - f) transfer or debit of the real property of the person under guardianship.
- (2) The person under guardianship can ask for the approval of the Court of Guardians
 - a) to set up or maintain an independent household of their descendant or to achieve other important purpose, to give support charged to their property if the fact or extent of support does not endanger their interest specified by law and their subsistence,
 - b) to a donation by them not belonging to the content of Paragraph a), to a legal statement containing waiver of rights without consideration or offering to public purpose supposing that the contract does not endanger their interest specified by law and their subsistence.
- (3) The approval of the Court of Guardians is not necessary to the validity of a legal statement adjudged by a decision of the Court or notary public.

- (4) To the validity of legal statements related to certain medical and civil status groups of matters specified in law, the approval of the organization or body specified in the specific other act is necessary.

SECTION 2:27 [ORDER OF SEQUESTRATION AND APPOINTMENT OF A SEQUESTRATOR]

- (1) If the institution of an action for placement under guardianship limiting legal capacity is reasonable and the protection of the property of the person concerned requires urgent measures, the Court of Guardians orders sequestration to the property with immediate effect and, at the same time, appoints a sequestrator. The decision ordering sequestration is non-appealable.
- (2) To the sequestration and the work of the sequestrator, the provisions of the chapter relevant to the execution of precautionary measures of the act on court execution have to be applied properly.
- (3) The Court of Guardians has to institute action on placement under guardianship within eight days following the order of sequestration and the Court has to review the sequestration ex officio within thirty days following the submission of statement of claim the latest and pass judgment on the merits about it.

SECTION 2:28 [TEMPORARY APPOINTMENT OF A GUARDIAN]

- (1) The Court of Guardians, exceptionally, in cases seriously endangering their life, physical integrity, property relations, requiring immediate measures, orders a temporary guardian to the person of legal age who, because of their mental capacity, physical condition or addiction or as an effect of other circumstances deriving from this and hindering participation in society, is unable to act and make decision on certain personal or property matters, making a legal statement independently or with help and protecting them from harm is not possible in another way – especially by ordering sequestration.
- (2) The Court of Guardians specifies in its decision appointing a temporary guardian in which matter or matters the temporary guardian can act. To the temporary guardian – in matters they are appointed to – the regulations relevant to a guardian are to be applied.
- (3) The Court of Guardians has to institute action on placement under guardianship within eight days following the appointment of a temporary guardian and the Court has to review the sequestration ex officio within thirty days following the submission of statement of claim the latest and pass judgment on the merits about it.
- (4) The temporary guardian can act in a way specified in Section 02:35.

SECTION 2:29 [THE RELATIVE INVALIDITY OF THE LEGAL STATEMENT OF A PERSON OF LIMITED LEGAL CAPACITY]

- (1) The annulment based on limited legal capacity can be referred to only in the interest of the person of limited legal capacity.
- (2) The person who, regarding their legal capacity, misleads the other party is liable for it and on the basis of their liability they can be required to fulfill the contract, too.

SECTION 2:30 [A PERSON OF LIMITED LEGAL CAPACITY BECOMES A PERSON OF FULL LEGAL CAPACITY]

If the person of limited legal capacity becomes a person of full legal capacity, they can decide on the validity of their pending legal statement.

*The rules governing the appointment of a guardian,
the rights and obligations of a guardian, and the termination of guardianship*

SECTION 2:31 [PROVISIONS REGARDING PLACEMENT UNDER GUARDIANSHIP]

- (1) The placement under guardianship can be asked for by
 - a) the spouse, a direct relative or the sibling of the person of legal age,
 - b) the Court of Guardians and
 - c) the public prosecutor.
- (2) If the Court of Guardians is advised of the necessity of the placement under guardianship, it has to institute the procedure of placement under guardianship without delay in the case a close relative specified in Paragraph a) of Subsection (1) does not do it within the time limit of forfeiture sixty days following the advise of the Court of Guardians on the necessity of institution of an action.
- (3) During the procedure of placing under guardianship, the Court – as circumstances require – provides information on the legal institution of supported decision-making and the conditions of its applicability for the persons participating in the procedure of placement under guardianship – according to the rules of unobstructed communication.

SECTION 2:32 [APPOINTING A GUARDIAN]

For the person placed under guardianship limiting legal capacity – on proposal of the person initiating the procedure or the Court of Guardians – the Court appoints a guardian in the decision ordering placement under guardianship.

SECTION 2:33 [THE CONDITIONS OF HOLDING THE POSITION OF GUARDIANSHIP]

- (1) The person of legal capacity of legal age can become a guardian who takes up guardianship, who is not excluded by reasons specified in law and is suitable for the position of a guardian as a person and in their circumstances.
- (2) The person cannot be appointed as a guardian:
 - a) against who the person placed under guardianship raises objections,
 - b) who is excluded from the list of the persons that can be appointed as guardians by the person placed under guardianship in their preliminary legal statement,
 - c) who is under guardianship,
 - d) who is a supported person,
 - d) who come under the scope of a final judgment depriving them of basic rights.
 - f) who is excluded by legal regulation on courts of guardianship and procedure of child welfare.
- (3) The person indicated by the person placed under guardianship in the legal statement made preceding or the person named during the procedure of placement under guardianship, if it is not possible, basically the spouse living together with the person under guardianship is to be appointed as a guardian. If there is not such a person or the appointment of the spouse as a guardian would endanger the interest of the person under guardianship the Court appoints a person as a guardian who, regarding all the circumstances, seems to be suitable for carrying out the duties of guardianship.
- (4) When appointing a guardian, of the persons suitable for the position, the parents or the person named by the parents in a public document or will for the case of their death, and in the lack of these, the relatives who are able to provide personal care, too, if necessary have to be granted privilege.
- (5) If a guardian, on the basis of what is contained in Subsection (1)–(4), cannot be appointed, an official guardian has to be appointed for the person under guardianship. An official guardian can only be a person of clean criminal record who meets the qualification requirements specified in law. An association or foundation dealing with defective persons, addicts or psychiatric patients can be appointed as an official guardian. If the Court, on the proposition of the Court of Guardians, appoints a legal person as a guardian, the legal person is required to name the person of legal age who is personally responsible for the fulfillment of the guardian's tasks.

- (6) The official guardian can be a guardian of at most twenty persons of legal age under guardianship at the same time. Applying this rule, the supported persons and persons under guardianship are considered alike.

SECTION 2:34 [APPOINTMENT OF MORE THAN ONE AND ALTERNATE GUARDIANS]

- (1) More than one guardians can be appointed for the person under guardianship. More than one guardians can be appointed especially when
 - a) both parents or two close relatives of the person under guardianship jointly take up guardianship with the same authority, or
 - b) the management of the property of the person under guardianship and the management of their other matters explains it.
- (2) In cases specified in Subsection (1), at the joint request of the guardians, the Court can specify the exact division of their responsibilities.
- (3) Beside the absent guardian or the guardian hindered for other reasons, the Court can appoint an alternate guardian for the person under guardianship if necessary. The alternate guardian can only act in matters requiring immediate measures.

SECTION 2:35 [THE ACTIVITY AND DUTIES OF THE GUARDIAN]

- (1) The guardian is the manager of the property and legal representative of the person under guardianship in specified group of matters if the Court has limited the legal capacity of the person under guardianship on disposal of their property.
- (2) The guardian, in justified cases – if they take it up – also provides care for the person under guardianship.
- (3) Making the decisions regarding the person under guardianship the guardian is required to listen to the person under guardianship – applying to the way of communication and mental capacity of the person under guardianship – and to take the opinion of the person under guardianship into consideration to the greatest possible extent. If the opinion of the person under guardianship cannot be stated, the guardian acts according to what the person under guardianship has previously communicated. If there is no way to state this, either, the guardian is required to act according to the known scale of values of the person under guardianship and in a way that serves their interests best.
- (4) If the guardian violates their duty specified in Subsection (3), it results in the exemption of the guardian, according to what is included in Paragraph c) of Subsection (3) of Section 02:39.

SECTION 2:36 [THE CONTROL OF THE ACTIVITY OF THE GUARDIAN]

- (1) The activity of the guardian is controlled by the Court of Guardians.
- (2) The guardian is required to give account of their activity and the state of the person under guardianship at any time on the request of the Court of Guardians, otherwise together with the annual accounts to the Court of Guardians.
- (3) The guardian – if the person under guardianship is under guardianship limiting the disposal of their property – is required to deliver the money, the securities and valuables of the person under guardianship to the request of the Court of Guardians if, according to law, they do not have to be kept ready for ongoing expenses. To the disposal of the property delivered to the Court of Guardians, the approval of the Court of Guardians is necessary.
- (4) The person under guardianship is entitled to view and copy the documentation kept by the Court of Guardians and the guardian on the activity of the guardian and the property of the person under guardianship.

SECTION 2:37 [GIVING ACCOUNT OF THE PROPERTY MANAGEMENT OF THE GUARDIAN]

- (1) The guardian is required to give account of the property management to the Court of Guardians annually at least. If the guardian is a close relative of the person under guardianship, the Court of Guardians can absolve them from the commitment of giving a regular account or can permit a simplified account.

- (2) Except for the official guardian, the guardian is not required to give an annual account if the person under guardianship does not have any properties and the monthly sum of their income deriving from employment, pension and other benefit does not exceed the extent specified by law.
- (3) The Court of Guardians can require the guardian to give an ad hoc account on the request of the person under guardianship or their proxy.
- (4) The Court of Guardians sends the account to the person under guardianship or to the proxy of the person under guardianship to opine.

SECTION 2:38 [REVISION OF THE JUSTIFICATION OF ORDERING A GUARDIAN]

- (1) The Court is to dispose of the time of the commencement of procedure for compulsory revision – due within five years from the time the judgment is rendered final – in its sentence ordering, maintaining or modifying limitation of legal capacity.
- (2) The revision process has to be initiated by the Court of Guardians. The objective of the suit of the Court of Guardians may be the termination, maintenance, or modification of placement under guardianship.
- (3) The Court decides on the termination, maintenance or modification of the placement under guardianship – according to Subsection (2) – based on the request of
 - a) the person under guardianship,
 - b) the spouse, direct relative, sibling of the person under guardianship,
 - c) the guardian,
 - d) The Court of Guardians or
 - e) the public prosecutor.

The suit can be commenced over the termination, maintenance or modification of the placement under guardianship before the time of the compulsory revision process, too.

SECTION 2:39 [THE TERMINATION OF THE FUNCTION OF THE GUARDIAN]

- (1) The guardianship is terminated when the person under guardianship has died.
- (2) The function of the guardian is terminated when the guardian has died or the guardian is exempted from the position by Court.
- (3) The Court exempts the guardian from their office if
 - a) the guardian requests their exemption,
 - b) an excluding reason arises later which would have been an obstacle to the appointment of the guardian.
 - c) the guardian does not fulfill their duty or has committed an act or behaves in a way which seriously harms the interests of the person under guardianship.
- (4) The court can exceptionally exempt the guardian when, in the interest of the person under guardianship, the appointment of another person as a guardian – taking all the circumstances of the case and the opinion of the person under guardianship into consideration – is justified.

The lack of discretionary power

SECTION 2:40 [ANNULMENT BECAUSE OF THE LACK OF DISCRETIONARY POWER]

- (1) The legal statement of a person who, at the time of making the legal statement, is in a state of temporarily lacking discretionary power necessary to oversee their matters is invalid.
- (2) The legal statement of a person described in Subsection (1) – except for their will – cannot be regarded as invalid if, from its content and circumstances it can be concluded that making the legal statement would have been justified in any way.

(This translation has been created by Hungarian Association for Persons with Intellectual Disability)

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