

From the privilege to equal treatment of the public sphere

It can be thought of between the appearance of preference and equal treatment. between the two concepts of living together. In fact, equal treatment and unequal treatment cover the entire spectrum of social problem management.

The privilege was first granted to the subjects by the rulers,² and this positive role was taken over by other state conglomerates, then by the churches and NGOs. However, Shutter mentions that the beginning of positive action dates back to the time when formal equality did not achieve its purpose. Positive discrimination is essentially the same as positive action, where quotas are often used in favor of a group with certain characteristics.³

De Schutter believes⁴ that equality is shared, there are those who bind them to the ICERD convention,⁵ while others interpret it less formally and further.⁶ The prohibition of discrimination was first proclaimed in New York on December 10, 1948, by Article 1 of the United Nations Convention on Human Rights (UDHR), but the desire for non-discrimination has already appeared in the founding documents of the UN. Conceptually equal treatment did not exist before the UDHR, but the concept is still changing today. It is well known that the development of equality theory is international in nature, so that different nations have different opportunities to apply the principle of equal treatment. Following the Bakke ruling of 1978, "California became the first state to allow a formal ban on race and other preferences when voters approved Proposition 209. Since then, Michigan and six other states - Washington, Florida, Nebraska, Arizona, New Hampshire and Oklahoma - have adopted similar bans. Following the ruling, "the state (including but not limited to public colleges and universities)" may not discriminate or grant preferential treatment to any person or group on the basis of race, color, ethnic origin or national origin in public employment, public education, or public procurement. course.⁷ The ECJ also plays an important role in developing and enforcing the doctrine of positive discrimination, which is discussed in more detail in the Equal Treatment section.

We can state that today it is primarily the responsibility of the state to ensure equal treatment and unequal treatment. The former is enshrined in international law,(Protected against discrimination include in particular the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (UNCRC), the Convention for the Protection of the Rights of Persons with Disabilities (ICMW) and the Convention on the Rights of Persons with Disabilities (CPRD), the latter

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² S. below.

³ Read more I. Makkos Nándor Equal Opportunities, Equal Treatment in State Social Policy Notaries and Public Administration 21 23-27. (2019).

⁴ Olivier De Shutter, D. Schiek, L. Waddington, and M. Bell (Eds.) Et al. Events, materials and texts on national, supranational and international anti-discrimination law Oxford Hart Publishing. 2007. p.757.

⁵ International Convention on the Elimination of All Forms of Racial Discrimination, 21 December 1965, p.7.

⁶ A. Epiney and M. Freirermuth-Abt: Das Recht der Gleichstellung von Mann und Frau in der EU. Baden-Baden, Nomos, 2003. p.185. S. FREDMAN: Discrimination Law. Oxford University Press, 2002. pp. 125-132.

⁷ <https://www.pewresearch.org/fact-tank/2014/04/22/supreme-court-says-states-can-ban-affirmative-action-8-already-have/> Downloaded: September 12, 2019.

can be found in the Hungarian Fundamental Law⁸ and 2003 CXXV. Act on Equal Treatment and Promotion of Equal Opportunities (Ebkvt.)

It is well known that people actually differ in their physical, mental, spiritual, qualities. These differences have always been perceived by empowered and 'social conglomerates' who want to regulate them, and therefore laws have been created to protect the weak.⁹ In the prevailing view, law derives from four sources, custom, legislation, case law, and legal opinion. In Egyptian law, the law is the 'word of the king'.

We see Richard A. Posner's statement that 'polycentric legal provisions for equal treatment and equal opportunities existed even before the appearance of Jewish-Christian religious standards, such as customary law, guild law, and commercial law' and the universal right which is essential for human life and dignity.¹⁰ The possessor of power, be it Pharaoh, religious leader, aristocracy, emperor, or king, was trying to hasten to help his widow materially and morally, and this help could be independent of any one religion. The possessor of power acted for the most cherished treasure of all, the future generation, the fundamental value of society for the family, but especially for those who formed the upper classes of society or the 'servant order'. (Hamurabi: Article 172) The emergence of literacy, unlike latency, has influenced the institutionalization of 'help' through the accompanying, visible, permanent and easily verifiable transmission of information. The protection of the weak over time extended to the lower-ranking population, the artisan family, and then prevailed in society. It can be stated that the protection of the weak in Europe was unevenly shaped by monopolistic legal traditions, the interests of the 'strong', the economy, the political situation and religions, both in antiquity and in the Middle and New Era. Equality before the law in the present sense with its content it did not exist before the Second World War, though it was previously justified by reforms of property rights and human rights. We see that economic and social rights are intertwined and form the basis for the institution of aid. The institution of privilege often served two purposes: supporting the needy¹¹ while consolidating its economic and political position.¹² Given that equality, equal opportunities and labor law did not exist in their current form, opportunities were not equal opportunity but merely the chance of survival. Giving the strong a chance gave the fallen extra money. In this world, therefore, we can not even speak of formal equality, since the usual power of regulating the life of the same group preceded or ignored it. Today, the state, churches and NGOs also provide services, often through jointly implemented programs, for the 'weak.'¹³ With regard to equal treatment, and in particular the granting of State preferential treatment, a number of concepts have acquired different meanings.

Bossuyt states: 'A reinforcement action is a temporary, coherent package of measures aimed at correcting the position of the target group's members in order to achieve effective equality in one or more aspects of their social life.'¹⁴ 'Action' in many countries, such

⁸ Hungarian Fundamental Law XV. Article 4.

⁹ Mihály Kmoskó: *The Laws of Hamurabi*. Ajtai K. Albert, Kolozsvár, 1911.

¹⁰ *The Jurisprudence of Polycentric Law* The University of Chicago School of Law A Paper Submitted to Professor Richard A. Posner In Accordance with the Requirements of 482: Jurisprudence & 499: Independent Research by Tom W. Bell Chicago, Illinois August 1992 <http://www.tomwbell.com/writings/JurisPoly.html> Download: Oct 29, 2018.

¹¹ For example see in Athens Constitution, Section 2, Clause 1, Twelve Tabular Laws, Second Book of King Stephen's Decrees, chapter 24, Widows and Orphans. Act for the Protection of widows, Married Women's Property Act 1870 etc. see more Edith Ennen: *Frauen in Mittelalten*. Sechste auflagen. Verlag C.H. Beck, München, 1999. p.136.

¹² Prof. Dr. Hartmut Oetker und Prof. Dr. Ulrich Preis: *Recht der Gleichbehandlung von Frauen und Männern in der Europäischen Union*. Forkel Verlag, 1996. p.20.

¹³ Over 'weak's. Aristotle: *Politics* Book. p.6.

¹⁴ The concept and practice of affirmative action Final report submitted by Mr. Marc Bossuyt, Special Rapporteur, in accordance with Sub-Commission resolution 1998/5 Economic and Social Council Distr. General

measures are referred to as preferential policies, reservations, compensation or distributive justice, preferential treatment, and various public sector entities such as the federal or provincial governments and municipalities, as well as private sector entities such as employers or educational institutions.

According to McColgan, measures to empower have traditionally been based on needs-based information or preference programs, the right to equal opportunities, we call it equivalent legal protection.¹⁵

Nalbandian notes¹⁶ that the US Supreme Court has already issued reinforcements in Griggs case.¹⁷ The reinforcing measures have been assessed to influence the composition of the Court, respecting the precedent and permeating the value of social justice in public policy and practice. In that case, the Court, referring to the Steelworkers case,¹⁸ found that the exclusion of voluntary positive measures would be contrary to the spirit of the law.

We see that at first certain groups in society have been given the opportunity by the rulers as they wish, but later we fought with Hepple, who says that social legislation is not the gift of enlightened rulers' is the result of struggles between different group's interest and ideologies.¹⁹

I. Causes of inequalities

According to Rosanvallon, inequality is the law of the world in its natural, moral, social and psychological sense.²⁰ According to Rosanvallon, the Janus-faced society is responsible for the increase in inequality, whose members 'complain about the consequences while taking care of the causes.'²¹ Equality is mentioned in the context of similarity, independence and nationality. Similarity refers to the most necessary material, independence to autonomy, citizenship to active participation of the community. We note that social equality can not be an individual characteristic, but makes sense only in relation to the social performance of society. According to Rosanvallon, religious equality is not synonymous with political or social equality, as there are different Christian, philosophical and legal approaches to natural equality.²² Dunoyer distinguishes between 'natural' and 'artificial' inequalities, the former being the result of human nature and the voluntary exchange of the free market, the latter the result of political privilege and access to state power.²³

E/CN.4/Sub.2/2002/21 17 June 2002. p. 3.

¹⁵ Alién, McColgan: *Discrimination Law. Text, Cases and Materials*. Second Edition, Hart Publishing, 2005 p.132.

¹⁶ John, Nalbandian: *The U. S. Supreme Court's "Consensus" on Affirmative Action Public Administration Review*, Vol. 49, No. 1 (Jan. - Feb., 1989), pp. 38-45.

¹⁷ *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971).

¹⁸ *S. United Steelworkers of America v. Weber*, 443 US 193 (1979).

¹⁹ Bob, Hepple: *The New Single Equality Act in Britain* *The Equal Rights Review*, Vol. Five (2010) p.11.

²⁰ Pierre, Rosanvallon: *The Society of Equals*. Harvard University Press, Cambridge, Massachusetts, and London, England, 2013. p.94.

²¹ *Ibid.* p.7.

²² *Ibid.* p.10.

²³ David, Mercer Hart: *Class, slavery and the industrialist theory of history in french liberal thought, 1814-1830: The Contribution of Charles Comte And Charles Dunoyer* <http://www.davidmhart.com/liberty/Papers/ComteDunoyer/CCCD-PhD/CCCD-shortthesis1993.pdf> p.85. Download: January 28, 2019.

II. Natural inequality

Locke did not consider the benefit incompatible with equality. 'Although I said above that all humans are naturally the same, I can not assume that I understand all kinds of equality. Age or virtue can give people a fair advantage. Granting parts and merit above the common level can surpass others. Through the birth of others and covenants, it may be useful to obey what is respected by nature, gratitude, or others. And yet, it is all the equality by which man can stand on top of each other in terms of jurisdiction or domination. What I've been talking about is my equality as a company in the hands of the same right, every person has the natural freedom to be subjected to the will or power of another person.'²⁴

III. Moral and psychological inequality

According Parr and Slavny in today's political and legal culture, people are equal, and the debate on moral equality makes it necessary to reject people's discrimination based on their psychological abilities.²⁵ The refusal is based on three considerations. The first is that the determination of possession of the relevant capacities is arbitrary, which allows the individual to be in the desired area. The second indicates that differences in psychological skills between individuals are morally relevant. The third reason is that people without the right psychological skills are disadvantaged.²⁶ However, it does not seem appropriate to order our fellow human beings under or over us, since both lead to a hierarchy. Yet the social division of labor creates a natural hierarchy. So not inequality, but unequal treatment is unacceptable? I think much more unfair treatment, because unfair treatment is certainly immoral. Unfair treatment is twice as unfair. It is unfair to the disadvantaged and may face the intrinsic value of the dishonest person.

IV. Rejection of inequality

In Carter's view, the rejection of inequality can also be justified by Rawl's theory that he does not scale different qualities in man, but rather binary, which means that they can be found in every human being.²⁷ On the one hand, fundamental equality plays a moral role in respectful relationships between individuals and imposes on them egalitarian obligations. On the other hand, the basic equality in the relations between state and citizens is morally relevant and defines the obligations of the state towards the citizen. However, Carter notes, 'Basic equality between individuals therefore depends on whether they are in a particular situation with each other and / or with third parties and are therefore morally entitled to respect the opacity.'²⁸

Hepple describes seven aspects of equality under the English Equality Act:²⁹

1. Equality, dignity and identity with due regard to human rights
2. State of Discrimination and Elimination of Disadvantages

²⁴ <http://www.yorku.ca/comminel/courses/3025pdf/Locke.pdf>. 127. Download: January 28, 2019.

²⁵ Read more Pacific Philosophical Quarterly 100 (2019) 837–857 ©2019 The Author Pacific Philosophical Quarterly University of Southern California and John Wiley & Sons Ltd.

²⁶ Ibid p.855.

²⁷ Carter, Ian: (2013). Basic Equality and The Site of Egalitarian Justice. Economics and Philosophy, 29(01), 21–41. p.28.

²⁸ Ibid. p.40.

²⁹ Alysia, Blackham: Extending Working Life for Older Workers. Age Discrimination Law, Policy and Practice. Oxford and Portland Oregon, Hart Publishing, 2016. p.10.

3. Continuous treatment / formal equality
4. Equal opportunities in content
5. Same skills
6. Same issue and
7. Honesty

In view of the above, only the latter needs an explanation from the list: According to Hepple, fairness refers to the distribution of opportunities.³⁰

In the view of Blackham,³¹ gender equality could alternatively include:

1. Formal equality is based on the similarity of individuals
2. Individual benefits that are free of stereotypes
3. Different treatment of people according to their needs
4. Adequate distribution of social resources (to prevent people being particularly burdened by belonging to a group)
5. Equal opportunities (so that individuals can choose from a range of options for the benefit of their lives)
6. Treatment of persons of equal dignity
7. Full social participation and inclusion.³²

V. Generations of equal treatment in the UK

Hepple mentions that there are five generations of equality laws in the United Kingdom.³³

The first generation was based on the concept of formal equality – ‘similar things must be treated the same way’ - spreading open discrimination on the continent. The law was a kind of reaction to the 1962 Commonwealth Immigrants Act, which made it difficult for black Asian immigrants to enter the UK.

The second generation, the Competition Act of 1968, was a measure of formal equality, but was not limited to racial discrimination, but also covered employment, housing, goods and services. The restrictive Commonwealth Immigrants Act of 1968 served to stop the influx of East African refugees into the UK.

The third generation was against sex discrimination, eg. through the Equal Pay Act of 1970 (EPA). This fight between the union and the feminist movements and between the workers and the liberal parties. Great Britain joined the Community in 1973, and the Treaty of Rome³⁴ had an impact on English anti-discrimination legislation, the principle of equal pay for men and women. The distinctive feature of the SDA in 1975, according to the Labor Government, was the introduction of an indicative approach and the principle of inappropriate or harmful discrimination. The provisions supported ‘positive action’. This was the first step from formal to material equality. At that time it was also possible to file a complaint against discrimination with the labor tribunals. Another step towards material equality has been taken with the Disability Discrimination Act 1995 (DDA).

The fourth generation is Article 13 of the Treaty of Amsterdam (1997) and the

³⁰ Bob. Hepple: Equality: The Legal Framework. Hart Publishing, Oxford 2011. pp.13-24.

³¹ Alysia Blackham: Extending Working Life for Older Workers: Age Discrimination Law, Policy and Practice. Oxford and Portland Oregon, Hart Publishing, 2016. pp.10-11.

³² Read more Aranka VARGA (Ed.) Fundamentals of Educational Sociology The further development of the TÁMOP-4.1.2.B.2-13/1-2013-0014 Teacher Training Networks in the Southern Transdanubia Region was carried out with the support of a tender to digitize the curriculum. Bolko-Print Pécs, 2015. 251.o.

³³ Bob Hepple: The New Single Equality Act in Britain The Equal Rights Review, Vol. Five (2010) p.11.

³⁴ The participating States signed it on 25 March 1957, establishing the European Economic Community.

Executive Race Directive 2000/43/EC³⁵ and Employment Directive 2000/78/EC,³⁶ age discrimination, disability, religion or belief and sexual orientation. and Framework Directive 2006/54/EC³⁷ prohibiting discrimination on grounds of sex. According to Hepple, it would be unlikely that any national legislation without Article 13 of the EC Directive would have been implemented. Despite these shortcomings, a new generation of EU-inspired laws marks the beginning of comprehensive equality.

The fifth generation will continue to move towards equality as a whole and begin a period of transformative equality. The Northern Ireland Law of 1998 (implementation of the Belfast and Good Friday Agreement) provides for further positive responsibilities for public institutions to promote equal opportunities not only for Protestant and Catholic communities, but also for age, disability, race, religion, such as gender, marital status and sexual orientation. Generations of Hepple Equality move from promoting equality, from Equality of equality over their acceptance, development and preventive support by the state, right up to substantive equality.

VI. Different approaches to equal treatment

Po-Jen Yap's analysis shows that gender equality is not just about ensuring formal and material equality, as the constitutional practices in Malaysia, Singapore, India, the United States, South Africa and Canada contain four equality approaches.³⁸

1. At one end of the constitutional spectrum, there is a formal gender equality model which requires similar treatment of persons receiving the same treatment.

2. The consequence of the formal principle is the rational relationship model. This model requires not only the equal treatment of persons with the same characteristics, but also that legislation is considered arbitrary³⁹ if the reasons for the legislation are not adequately related to the objective pursued.

3. The normative model examines whether there is a rational connection between legislative departments and legitimate government policies. This normative model requires a forensic examination of whether the discriminatory treatment based on the legislative classification affects the applicant in a way that deeply reflects personal social stereotypes that can not or only be changed at unacceptable personal costs. The aim of the normative model is therefore to identify the forbidden reasons for legal differentiation.

4. Finally, the material model tries as a normative model to identify the banned causes of discrimination. However, it is the only gender equality model that does not justify a finding of inequality, statutory classification or unequal treatment. The material model therefore makes it possible to eliminate inequality if the state untreated people in different situations.⁴⁰

The research of Po-Jen Yap can be summarized as follows. Since absolute equality between all human beings and unequal treatment between groups of people is unavoidable,

³⁵ Council Directive 2000/43 / EC of 29 June 2000 implementing the principle of equal treatment between persons of a racial or ethnic origin.

³⁶ Council Directive 2000/78 / EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

³⁷ Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast).

³⁸ Po-Jen Yap, Four Models of Equality, 27 Loy. L.A. Int'l & Comp. L. Rev. 63 (2005).

³⁹ Victor V. Ramraj: Comparative Constitutional Law in Singapore, 6 SING. J. INT'L & COMP. L. 302, 312 (2002).

⁴⁰ Simpson, Amelia (2005). Book Review The Logic of Equality: A Formal Analysis of Non-Discrimination Law. Federal Law Review, 33(1), pp.177-179.

the material equality model embodied in the Canadian approach is the most important paradigm, since it allows for the characteristics that the Legislators used to justify the differential or equal treatment of groups of people. According to Po-Jen Yap, 'this recognition should be complemented by an Kantian theory of rights. It should reconcile the exercise of competing rights and interests within the legal system. Kant's theory-based deontological principle of rationality is based on the understanding that any consideration of the limits of rights must be in the light of the obligation to respect the rights and freedoms set forth in the rest of the Constitution.'

According to Kiss, 'the principle of equal treatment and equal treatment in private law has led to many disputes. There is a certain social, compensatory charge of equal treatment that is alien to private law even in its consolidated content.'⁴¹ However, the conflict between private and social rights is a source of constant conflict.

According to Dolvik and Visser, in *Laval Quartett*⁴² the Court expressed the supremacy of economic freedom over the Member States, fundamental social rights or social protection mechanisms.⁴³

VII. Unequal treatment and its embedding

The development of positive action stems from President Johnson's actions in the United States in 1965, which sought to enforce the UDHR's provisions in business and labor relations. In 1980,⁴⁴ Judge Stewart had referred to the 'blindness' of the law (non-discrimination) and cited a case from 1896⁴⁵ that his colleagues disagreed with because they considered that 'the rational exercise of the law is in good faith and in law in the interest of the Community'.⁴⁶ His judgment at the time is now obsolete.⁴⁷ McRudden differentiates between five forms of positive action: eliminating discrimination, neutral but focused inclusion of measures, advanced measures, preferences and redefined earnings.⁴⁸ McRudden called 'on-demand, extended programs' and 'preferential programs', stating that there are many forms of the latter, ranging from the quota application to the 'binding rule' to the naming rule.⁴⁹ The enforcement of the prohibition of discrimination is also possible at international, supranational and national levels. Including guidelines include and comprehensive human rights. Extended measures are information measures⁵⁰ to prevent

⁴¹ Legal Regulation of Public Service Careers Scientia Rerum Politicarum Series Editors György Kiss and Norbert Kis Edited by György Kiss, Dialóg Campus Budapest, 2019. p.81.

⁴² Case C-341/05 *Laval un Partneri Ltd v Svenska Byggnadsarbetareförbundet*, Svenska Byggnadsarbetareförbundets avdelning 1, Byggettan and Svenska Elektrikerförbundet t, C-438/05 - The International Transport Workers ' Federation and The Finnish Seamen's Union, C-346/06 *Dirk Rüffert v Land Niedersachsen*, Case C-319/06 *Commission of the European Communities v Grand Duchy of Luxembourg*.

⁴³ Jon, Erik Dolvik and Jelle Visser Free movement, equal treatment and workers' rights: can the European Union solve its trilemma of fundamental principles? *Industrial Relations Journal* 40:6, 491–509.

⁴⁴ *Fullilove v. Klutznick*, 448 U.S. 448 (1980).

⁴⁵ *Plessy v. Ferguson*, 163 U.S. 537 (1896).

⁴⁶ Aliene McColgan: *Discrimination Law. Text, Cases and Materials*. Second Edition Hart Publishing, 2005 p.145.

⁴⁷ Later in *Brown v. Board of Education, Topeka*, 347 U.S.C. 483 (1954) included the now discriminated notion that "separate but equal" treatment of whites and African Americans is permissible under the Fourteenth Amendment.

⁴⁸ Case C-158/97. *Badeck and Others* 12. Read more I. Rethinking Positive Actions 1986 15 *Industrial Law Journal* 219. Read more in Aliene McCOLGAN *Discrimination Law: Text, Cases and Materials* Second Edition Hart Publishing 2005 130-131.

⁴⁹ *Adarand Constructors, Inc. v. Peña*, 515 US 200 (1995).

⁵⁰ Read more Neil Addison: *Religious Discrimination and Hatred Law* Routledge. Cavendish Taylor & Francis London and New York, 2007. pp.76-77.

discrimination.⁵¹ This is called preference, e.g. in the case of *Kalanke*,⁵² where we give an advantage to underrepresented non-representatives. A newly defined earnings has occurred, eg. in the *Baddeck* case, because the principle of equal treatment may be contrary to the principle of best choice, because 'equal treatment not only prohibits the privileged treatment of a particular group but also guarantees the fundamental right of every individual, a right which citizens initially had guaranteed a level playing field rather than providing benefits to a particular group of people.'⁵³

VIII. Over generations of equal treatment in Hungary

1. After 1945, international law influenced the constitutional law of most democratic states in Europe. In Hungary, in the field of equal treatment, national legislation during the period of socialism was repealed, with the exception of the provisions of the Constitution, which pointed to formal equality. Most formal equality requirements consisted of statutory provisions according to the socialist constitution, e.g. 16. of 1955 for the prevention and punishment of genocide crime; 2. Citizenship of married women, 1960; 8. 1969 to eliminate all forms of racial discrimination; 7. of 1976 on mutual consent, the minimum age for marriage and the registration of marriages. 27. 1976 on the suppression and punishment of apartheid crimes; On October 10, 1982, it was about eliminating all forms of discrimination against women.

2. The change in the system was essential to make a significant change in gender equality, since the regulation of equal treatment was governed by genuine consensus laws, although they largely corresponded to the content of international treaties, eg. LXIV of 1991 Law XXXIV of 1999 on the Rights of the Child, Law for the Protection of National Minorities of the Council of Europe. In this circle we can mention the XXXI of 1993. Law LX of 2000 for the Protection of Human Rights and Fundamental Freedoms. Law on Employment and Professional Discrimination and Law LX of 2001. There is also a law to eliminate all forms of discrimination against women.

3. The breakthrough in the field of equal treatment is *Ebktv.* its creation meant. This law contains the general requirements of equal treatment and equal opportunities. In the opinion of Gyulavári, 'the regulation on equal treatment at the legislative level has so far essentially been the so-called equal treatment regulation. It followed the concept of material prohibition (Labor Code, Civil Code, etc.) and procedural law (civil, state administration, etc.). This regulatory model contains anti-discrimination legislation in different jurisdictions - to varying degrees and depths.'⁵⁴ We can conclude that gender equality rights in Hungary will not become material equality until 2003, firstly because *Ebktv.* it also contains a preference, since the essential model of equality is the only logical and meaningful constitutional guarantee against legislative discrimination that seems to be moving in the direction of Hepple's transformative equality. On the other hand, the theoretical work of the Equal Treatment Authority, which has an impact on national case-law, and the practical work of the Authority to achieve equal treatment are essential.

4. According to Balogh,⁵⁵ 'the Hungarian model is the so-called equality policy, which

⁵¹ Colleen Sheppard: *Inclusive Equality. The Relational Dimensions of Systemic Discrimination in Canada.* McGill-Queen's University Press, Montreal & Kingston, London, Ithaca, 2010. p.22.

⁵² Case C-450/93 *Eckhard Kalanke v Freire Hansestadt Bremen* 17 October.

⁵³ Case C-17/05 *B.F. Cadman v Health & Safety Executive*, intervener: Equal Opportunities Commission, 3 October 2006.

⁵⁴ Tamás Gyulavári: *Equal Treatment and Equal Opportunities Made with the support of the National Public Employment Foundation.* Published by LIGA Trade Unions, Budapest, 2003. p.4.

⁵⁵ Zoltán Balogh: *National Social Convergence Strategy 2011-2020 Civic Review* February 7, 2012. No.5-6.

assigns access to central and EU funds to a compulsory analysis and an equal opportunity plan'.⁵⁶ 'All on the ground The community needs a local equality program (HEP) to develop problematic statistical data for the population of the settlement.'⁵⁷ (The TeIR-Szoc-ÁIR system is a graphical representation of social phenomena based on 102 indicators and diagrams that are among the objectives of the National Strategy for Social Inclusion (NTFS). The list of compulsory indicators of the HEP and the aspects of their preparation are set out in Ebktv. In addition to its provisions, it is subject to two further provisions.⁵⁸ Balogh emphasizes: 'In preparation it is extremely important to assess whether the tel, in communal partnerships, non-discrimination, and support the close-up of disadvantaged groups.'⁵⁹ He started this work with Training and Research Institute István Türr (TKKI) after then, with Directorate General for Social Affairs and Child Protection (SZGYF)⁶⁰ and now the responsibility on the Directorate-General for Social Opportunities (TEF).⁶¹ The obligation to ensure equal opportunities for all municipalities of different sizes is affected by asymmetrically because of their economic strength. In order to reduce the regional economic differences, the 'Economic Stimulus Program for Favored Settlements' or the 'Hungarian Village Program'(MFP). The 'catching-up communities' can be a long-term program. No. 1403/2019. (VII.5) contains the crucial local public services for the disadvantaged Hungarian citizens. The chapter 'Converging settlements'. The program covers the 300 most disadvantaged settlements selected on the basis of the lowest complex index created by the Central Statistics Office. In the first round of billing, it is being run by the Hungarian Maltese Charitable Association (MMSZSZ) in 30 rounds of billing.⁶² Certain program elements of the MFPP support the catch-up process specified in these programs.

IX. Summary

In my opinion, the development of the principle of equal treatment is linked to the UDHR Convention and its immediate history. The examples given above show that, for the first time in history, unequal treatment and disadvantage have developed, followed by a preference policy. In the past, due to the need for equal rights, equality rights were binary because, according to Hepple, 'public bodies had to enforce equality in all their functions'(...), which includes both equality of treatment and unequal treatment.

We have introduced some theoretical models of equal treatment but did not want to remain at the theoretical level. Rather, we would like to point out that after 2010, after formal equality, the Hungarian government has embarked on a new path in the search for substantive equality, in which municipalities are partners. Equal opportunities policies have a twofold temperature, they need to respond calmly to conceptual changes in equal treatment and respond quickly to new challenges in this area. Alongside the crucial role of law, the new approach to equal opportunities also accepts government action in this direction, its

⁵⁶ Equal Treatment Act. Section 31.

⁵⁷In connection with the HEP programs, municipalities are assisted by the Ministry of the Interior from 01.08.2019, from the Directorate General for Social and Child Protection, in the 180/2019. (VII. 26.) Government Department for Local Equal Opportunities Programs of the General Directorate for Gender Equality.

⁵⁸ 2/2012. (VI. 5.) EMMI Decree and Decree 321/2011. (XII. 27.) Government Decree.

⁵⁹ Zoltán Balogh National Social Convergence Strategy 2011-2020 Civic Review February 7, 2012 No.5-6.

⁶⁰On the proclamation of the Convention of 15 October 1985 on the European Charter of Local Self-Government, Strasbourg Article 9. 5.

⁶¹ 253/2016. (VIII. 24.) on the modification of certain government decrees in connection with the termination of the István Türr Training and Research Institute.

⁶²Annex 2 to Decree 1403/2019. (VII. 5.) Korm.

coordination, the rationalization of recovery and the continuous training on equal opportunities. Equal treatment between legal persons seems to be different from interactions between legal and natural persons.

It can be stated that the preference is fourfold. On the one hand, it includes the legislative support of disadvantaged local governments, and on the other, it includes the ministerial management of local governments in their equality policies.

The equal treatment of local authorities with the public requires a two-pronged requirement, including ensuring equal treatment in their procedures and ensuring equal opportunities before acting.

Since we are talking about discrimination against one person or a group on the basis of their characteristics, it is obvious that the requirement of equal treatment in some cases is to ignore difference, in other cases to change or disadvantage a person. Changing the environment of the disadvantaged person and / or being harmful means changing attitudes.

After the establishment of the national framework for equal opportunities, the process of catching up is strengthened by the development of a system of indicators, as well as the content-based but organized filling of the catching-up process of disadvantaged persons in municipalities.