



NEWS REPORT

Update of flash report nr:	308-HU-11
Date:	17 June 2010
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Title:	Ministerial opinion on the supervisory powers over the Equal Treatment Authority's decisions
Country:	Hungary
<u>Context</u>	
Issue at stake:	According to the Ministry of Justice, the Equal Treatment Authority's decisions may not be altered or annulled by the Minister exercising supervisory powers over the Authority
Ground of discrimination:	all grounds
Source:	legislation
Field:	all fields
Legislative provisions:	Act CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities (ETA); Government Decree 362/2004 on the Equal Treatment Authority and the Detailed Rules of its Procedure (ETAD); Act LVI of 2009 amending a series of laws (Articles 294-295)

Content

Law: As indicated in flash report 11, at the end of June 2009, the Parliament adopted an amendment to Article 17 Paragraph (2) of the ETA that raised concerns that the Minister exercising supervisory powers over the Equal Treatment Authority may annul or alter its decisions, which would compromise the Authority's independence.

As of 1 October 2010, Government Decree 182/2009 amended the ETAD, inserting a new Article (5/A), stating – practically using the old text of the ETA – that the decisions of the Authority delivered in an administrative proceeding may not be altered or annulled through the supervisory powers of the competent Minister.

Thus, a potential collision between the ETA and the ETAD emerged. To solve the problem, the Authority contacted the Ministry of Justice (as the



primary initiator of legislative change) in December 2009, and expressed its opinion that through the different means of interpretation and also taking into consideration Hungary's obligations under Directive 2000/43 the proper interpretation of Article 17 Paragraph (2) is that the Authority's decisions may not be annulled or altered by the Minister. At the same time the Authority proposed that the new text of Article 17 Paragraph (2) was amended to make this fully clear.

In a letter dated February 2010, the Ministry replied that in their view the Authority's interpretation was correct: its decisions may not be altered or annulled through Ministerial supervision. However, no legal amendments are needed, as this is clearly formulated in the ETA and the ETAD already.