

## Equal Treatment Authority

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### The Hungarian national equality body



EGYENLOBANASMOD

[www.egyenlobanasmod.hu](http://www.egyenlobanasmod.hu)

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## About us

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- The Equal Treatment Authority (ETA) was established by the Act CXXV of 2003 on Equal Treatment and the Promotion of the Equal Opportunities, and started its operation on the **1st February 2005**.
- The ETA is an „*all-grounds*” *body* (19+1 ground) „other status” as a protected ground: guidelines for determination in a position paper of the Advisory Board
- **Fields covered by the ETA:**
  - Employment
  - Goods and services
  - Housing
  - Education
  - Health
  - Every legal relationship of the public sector

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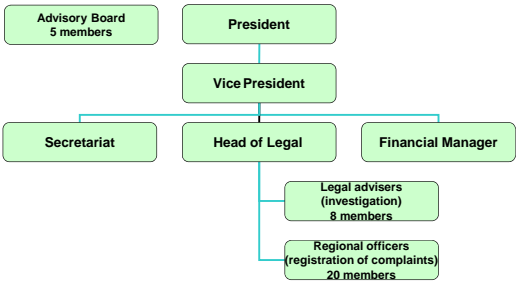
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## Organisational Structure

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graph TD; AB[Advisory Board  
5 members] --- P[President]; P --- VP[Vice President]; VP --- S[Secretariat]; VP --- HL[Head of Legal]; VP --- FM[Financial Manager]; HL --- LA[Legal advisers  
(investigation)  
8 members]; HL --- RO[Regional officers  
(registration of complaints)  
20 members];
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## Functions and responsibilities

- **Hear and consider complaints**  
Investigation powers:
  - Hold hearings, hear witnesses
  - Involve experts,
  - Spot checking
  - Situational testing
- **Comment on drafts of legal acts concerning equal treatment**
- **Co-operate with and support NGOs and interest representation organisations**
- **Provide aid and legal assistance to victims**
- **Assist in the preparation of governmental reports to international organisations**
- **Inform the public and the Government about the situation concerning the enforcement of equal treatment**

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## About us

**Work load:** increasing number of complaints

- **2005: 491**
- 2006: 592
- 2007: 756
- 2008: 1153
- 2009: 1087
- **2010: 1167**

**Complainants:** natural and legal persons

**Actio Popularis** since 2007: NGOs and trade unions may instigate a procedure before the ETA if the violation of the principle of equal treatment or a direct threat of the violation was based on such a characteristic that is an essential feature of the individual, and the violation of law or a direct threat of the violation affects a larger group of persons that cannot be determined accurately.

**Number of actio popularis per year:**

- **2007: 3**
- 2008: 11
- 2009: 10
- **2010: 16**

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## About us

**Measures:**

- order that the situation constituting the violation of law should be eliminated,
- prohibit the continuation of the violation of law
- publish the decision
- impose a fine from 1750 EUR to 20000 EUR

**Damages may only be awarded by courts**

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## Tribunal-type body

### Dorsch-case (C-54/96)

National court or tribunal within the meaning of the Treaty (Art. 267 TFEU)

- Established by law
- Permanent
- Compulsory jurisdiction
- Inter partes procedure
- Applies rules of law
- Independent

Consequence → tribunal type equality bodies may submit questions to the ECJ for a preliminary ruling

## Tribunal-type body

- The ETA is to be regarded as a **tribunal**, however it has never been involved in proceedings before the ECJ
- **Independence**: compliance with the principles of the ECRI Recommendation No 2.
  - Decisions can only be appealed before the court, no supervision of decisions by the Ministry of Public Administration and Justice
  - Independent annual report on the activity
  - Funding is subject annually to the approval of parliament

## EU funding for the promotion of equality

- In May 2009 the Authority signed a contract for a 51 month program named TAMOP 5.5.5. „**Social Renewal Operational Programme/ 'Combating discrimination – shaping social approach and strengthening'**

Within this project:

- **Awareness-raising** and attitude-shaping education and training for NGOs, local governments, trade unions and public administration authorities.
- Development of **customer services: we trained 20 lawyers who practice in discrimination across the country (pre-screen complaints and provide professional advice)**. They assist in drafting complaints and referring applicants to the proper authority when we lack jurisdiction. 19 lawyers on the county and micro-regional level registering complaints and providing legal aid.
- Increased **media** presence

## Challenges

Some **challenges** experienced by the ETA as a new equality body :

- 30% of the complaints are not even related to discrimination → **Lack of knowledge of remedies and the competence of the ETA**
- Budapest is the most significant source of complaints where the prevalence of discrimination is the lowest across the country → there is a **need for a more effective channeling of complaints (geographically)**
- **Absence of national case-law** on discrimination and lack of examples of the shifted burden of proof in the national legal system
- **Lack of Roma experts in situational testing**

## Strategy for 2011-2013

### Goals:

- 1. developing investigation practices and facilitating the settlement of disputes
- 2. awareness raising (communication strategy)
- 3. developing international relations

### Developing investigation practices

- Creating and maintaining a database of trained testers and elaborate a methodology for professional testing
- Conducting one overarching ex officio inspection in a disadvantageous area

### Facilitating the settlement of disputes

- Training on Mediation of the legal advisers
- Increasing the number of settlements

2005: 6  
2006: 13  
2007: 3  
2008: 23  
2010: 33

## Contact

**Thank You!**

**Adel Kegye**

[adel.kegye@ebh.gov.hu](mailto:adel.kegye@ebh.gov.hu)

**(+36) 1 336-7673**



DOUVEZ  
À TOUT

National Equality Bodies

The French Example: Halde

Sophie Latraverse

9 November 2010

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À TOUT

**HALDE**

08 1000 5000

www.halde.fr

Haute Autorité  
de Lutte contre  
les Discriminations  
et pour l'Égalité

  
Ministère de l'Égalité et du Territoire  
RÉPUBLIQUE FRANÇAISE

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HALDE

→ Created by the Law of December 30, 2004

→ Jurisdiction over all discriminations prohibited by French law and international conventions duly ratified by France

→ In France, 19 grounds of discrimination prohibited by Law:

→ French Law covers all areas of activities:

- Goods and services
- Access to public service
- Private and public employment
- Health

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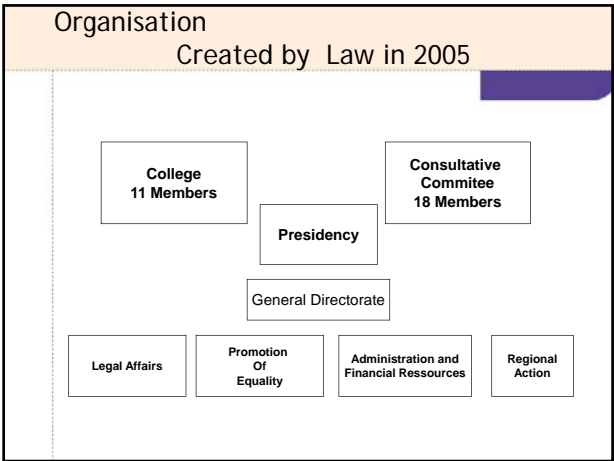
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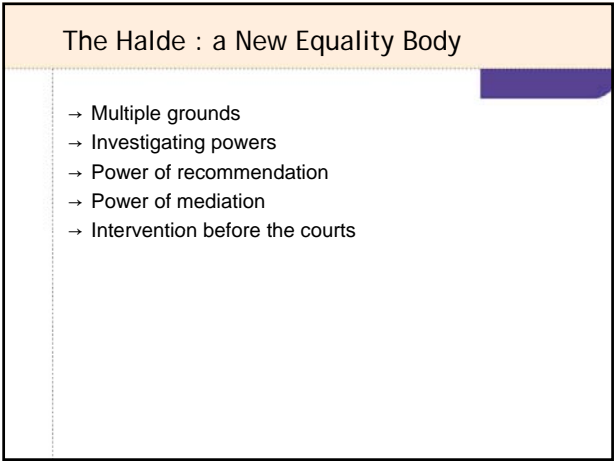
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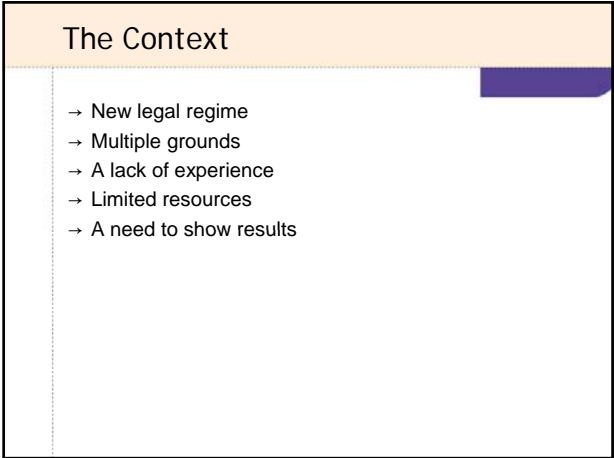
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### Managing Reality

- An ever increasing number of complaints
- An absence of pre-existing judicial practice
- A reluctance of judges
- A need for judicial determination in a multiplicity of legal issues
- The scrutiny of civil society: great expectations

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### Litigation strategy and objectives at stake

- Development of investigation practices
- Development of judicial practice
- Development of jurisprudence
- Development of research

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### Investigation Powers

- To collect information from claimant
- To collect information from any third party private or public
- Interrogation of any person public or private
- In situ inspection
- Sworn statements by Halde agents

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Other functions: promotion of equality

- Develop visibility
- Develop cooperation
- Develop complementarity
- Identify strategical issues
- Find effective means of intervention

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Five examples

- Communication strategy to increase visibility
- Creation of a survey/reporting tool for businesses
- Communicating on a specific problem: pregnancy
- Working group on Roma
- Working group on the evaluation of women's jobs

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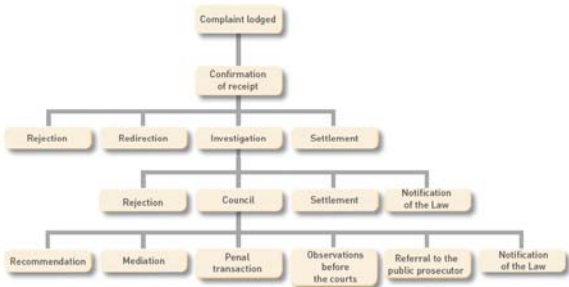
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/ Case handling



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Claims and Constraints

Per year

- 1 410 claims in 2005
- 4 058 claims in 2006
- 6 222 claims in 2007
- 8 705 claims in 2008
- 10 545 claims in 2009

Evolution:

From 117 claims per month in 2005  
to 338 réclamations per month in 2006,  
and 880 claims per month since the end of 2008.

Since 2005 40 000 claims and 36 180 files closed

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Follow-up of Cases

- 69 % of the Recommendations followed
- 83 % of the Observations presented before the Courts followed
- 60 % Successfull Mediations
- 79 % Public Prosecution after transmission to the Prosecutor
- 98 % of the Penal Transactions have been validated by the Public Prosecution

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Regional Action

→ 6 regional offices : four on the metropolitan territory(Nord Pas-de-Calais, PACA, Ile de France, Rhône-Alpes) and two in Overseas Territories (Réunion, Antilles-Guyane).

Mission : To coordinate a network of volunteers informing the public

- 130 volunteer delegates:
- Reception of claimants
  - Help to the constitution of the file or re-orientation
  - Rapid local dispute resolution

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WEB SITE

→www.halde.fr

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