



## European network of legal experts in gender equality and non-discrimination

### FLASH REPORT

<b>Country:</b>	Hungary
<b>Title:</b>	Report of ombudsperson on preferential treatment of women concerning repayment conditions of student loans
<b>Date:</b>	04 March 2019
<b>Expert:</b>	Lídia Hermina Balogh
<b><u>Context</u></b>	
<b>Issue at stake:</b>	Whether student loan repayment alleviations provided by the government for mothers of at least two children qualifies as discrimination based on sex
<b>Ground of discrimination:</b>	Sex
<b>Source:</b>	Ombudsperson's report regarding case no. AJB-978/2018, launched on 24 July 2018
<b>Field:</b>	Pregnancy and maternity
<b>Applicable law:</b>	Fundamental Law of Hungary, Articles L and XV; Articles, Governmental Decree 1/2012 (I. 20.) on the System of Student Loans (with amendments in force since 1 January 2018), Article 18.

### **Content**

**Case Law/Policy development:** The ombudsperson, after receiving complaints from individuals, implemented an *ex officio* investigation regarding recent amendments (in effect from 1 January 2018) of the Governmental Decree on the System of Student Loans. According to the new provisions, women are entitled to an alleviation of 50 % of their student loans after giving birth to (or adopting) a second child, and an alleviation of 100 % after giving birth to (or adopting) a third child. Moreover, pregnant women may suspend the repayment of their student loans from the 91th day of their pregnancy, for a total duration of 36 months. Fathers (either biological or adoptive) are not entitled to this alleviation: even in situations when the parents are living together, and the mother has already repaid or never had a student loan, the entitlement is not transferrable to the male spouse/partner. Single fathers, either raising biological or adopted children, are also excluded from this entitlement. According to conclusions of the ombudsperson, the government should consider revising the amendment.

**Key points of analysis:** According to the reasoning of the ombudsperson, the preferential treatment of women should not be considered necessarily as discriminatory or unconstitutional, if the policy in question qualifies as *ex gratia* allowance/alleviation. The ombudsperson states that the preferential treatment of women in this situation is justified, taking into consideration the extra burdens of childbearing in cases of biological mothers, as compared to fathers. However, it holds that the student loan repayment rules (that the entitlement for alleviation is not transferrable) are 'unreasonable' in cases where the parents are living together. The ombudsperson explains that there are single biological fathers who are raising their children alone from the earliest stage (e.g. because the mother died or left the family), in case of which the policy is 'worrisome in

relation to the requirement of equal treatment'. Moreover, in the cases of single adoptive mothers and fathers, the differentiation between women and men is not justified (because there are obviously no differences between their parental burdens), and thus the policy is "anomalous in relation to the requirement of equal treatment".

**Internet link source:**

[https://www.ajbh.hu/documents/10180/2805034/Jelent%C3%A9s+a+null%C3%A1zhat%C3%B3+di%C3%A1khitel+kapcs%C3%A1n+978\\_2018/809493ba-7ede-bfb5-a034-46d085dc6a14?version=1.0](https://www.ajbh.hu/documents/10180/2805034/Jelent%C3%A9s+a+null%C3%A1zhat%C3%B3+di%C3%A1khitel+kapcs%C3%A1n+978_2018/809493ba-7ede-bfb5-a034-46d085dc6a14?version=1.0) (accessed 8 February 2019)