This presentation has been made for the National Information Day of the Republic of Slovenia, and consists of three different parts. First part of it is this essay. Second part of it is the text of the Act. It is an Appendix of this essay. Third part is a multimedia presentation that focuses on practical successes and failure of the Act and will be available after May, 31, 2005 at http://slovenia.disabilityknowledge.org/.

The aim of this essay is give a broad theoretical picture about the values and ideas those were behind the Act. It also refers to the successes and failures of the first equal opportunity legislation of Hungary. It discusses its history, structure, but focuses mainly on the content of the Act.

1. AN INTRODUCTION: THE PROBLEM THAT HAD TO BE SOLVED IN 1997-8

There were in the 90-ies - and even there are - several hundred thousand disabled persons seriously impeded in social co-existence in Hungary. (The exact number of individuals with disabilities is unfortunately unknown in the country. Maximum estimation is approximately 10% of the whole population – see e.g. Kalman-Konczei 2002, Introduction. Minimum estimation is between 3-5%: see: Lakatos-Tausz 1995, p. 7). 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 disabled 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 deaf or have serious speech disabilities and are unable to communicate. The fact that in reality the disabled 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. Additionally, the society should 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 minority living with disabilities.

2. What we did do and why?

Ministry of Welfare was responsible for this piece of legislation in 1997-1998. We tried to involve individuals with disabilities and their organizations into the process of legislation. In February of 1997, NGO-s, professionals, many persons living with a disability, service-providing non-profit organizations of people with disabilities, and organizations for people with disabilities were asked to write studies about what they wanted to see in the law and what they did not want to see in the law. 150 requests have been sent out for studies and received about 90 responses, their length varying between 2-15 pages.

3. The content: background and significance

3.1. Aim of the act, and the philosophy behind it

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

2 In the Ministry the new act belonged to the duties of: Mr. Mihaly Kogon and Mr. Gyogy Konczei.
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 her/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 mentioned 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 har-
mony with our obligations undertaken in international agreements and with the requirement of drawing closer to Europe. Providing services for persons living with disabilities those 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 therefore serves 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 acquitted,
- 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 the disabled (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.

3.2. Basic definitions

- A person with a disability: is anyone who is to a significant extent or entirely not in possession of sensory or locomotor’s 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 the disabled, 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.

- **Vocational 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.

### 4. Question of rights

The problem to be solved by 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.

Consequently, the Act had 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,
- create the conditions for equality of opportunity for disabled persons so that the disabled 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,
- 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.

4.1. Basic rights

Individuals with disabilities 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.

4.2. 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.

4.3 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 possi-
bilities 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. 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. In the future, traffic signs may only be placed in such a way that they do not prevent movement by persons living with disabilities. Newly installed traffic lights in dangerous intersections must be provided with acoustic signals in the future.

- **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 the deaf persons or persons with serious disabilities in speech for some other reason, with serious communication difficulties. 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.

- **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 is 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 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 wished 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 her/his condition justifies it, the disabled person has the right to perform work in a special workplace (special enterprise, employment institution).
4.4. The right to avoid humiliating treatment

No one may be subject 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 coordinated 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.

5. Institutional system controlling implementation of the provisions of the act

5.1. The National Council on Disability Affairs

The Council is a national body on disability affairs attached to the Government.
- Its President is the Minister of Welfare;
- its members, together with the president number 11, of whom 4 members are delegated by organizations representing the disabled 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 the disabled.

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.
5.2. 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 the disabled.
- 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.

5.3. 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.

6. Further tools responsible for effective exercise of basic rights

Proposed system of rehabilitation

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 vocational rehabilitation.

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 personalized 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

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3 The institutional system defined in Parliamentary Resolution No. 75/1997. (VII. 18)
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.

8. Benefits

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.

8.1. 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.

8.2. 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. The disabled, their family members and organizations representing their interests must be involved in planning and establishing the supporting services and in evaluating their efficiency.

8.3. System of cash benefits for disabled persons
In order to create 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 coordinated planning, transformation of the system of cash benefits for the disabled 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 coordinated 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 the disabled 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.

- 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 Act provides for a compensation benefit to which the disabled 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 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 the disabled 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 labour 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.

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 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.

8.4. 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 the blind 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

4 HUF = Hungarian forint. 1 Euro is approximately equal to 250 HUF in 2005.
- according to one type of categorization 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 categorization takes into account members of the four main disability groups (blind, deaf, mentally disabled and physically disabled people) 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 disabled), an approach that better corresponds to the spirit of the aim of this Act.

**8.5. 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),


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 the blind (6/1971. EüM regulation of the Minister of Health),
- higher family allowance (Act XXV of 1990),

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 the blind, the higher family allowance and a part of the transport support for persons with serious physical disability.


The law came into force on January 1, 1999. It created a national level lobbying body on disability. Groups of people with disabilities have dominant representation in the national body. More than half of the seats is be filled by people with disabilities and less than half of them is filled by civil servants from different ministries.

A four-year disability program, has been developed by the law. The Program has been created by the national body, and has been adopted and monitored biannually by the Parliament itself.

It was not easy to solve the prohibition of discrimination in the Act, because Hungary belongs to the Continental legal system. The only solution was to make a reference to a civil code to prohibit discrimination. The civil code refers to the Constitution of Hungary, which prohibits discrimination on the basis of age, race, sex, skin color or religion, but disability is not mentioned in the Constitution. Disability was not mentioned in the civil code either, but in the law which passed, on March 16th, references were made to the civil code: “no-one can be discriminated against on the grounds of disability”. If there is discrimination, the discriminated person may turn to the court in order to stop discrimination and for compensation. In this way we were able to introduce a clear anti-discriminatory principle into the Hungarian legal system. (The multimedia presentation will discuss this problem more broadly.)

The law also creates a system for rehabilitation by creating a public foundation for rehabilitation, which will have local and regional elements. It also creates a so called cost of disability payment, which introduces to the Hungarian legal system another new element. The concept here is as follows: if someone lives with a disability, that person has additional costs and these additional costs must be reimbursed by the society.

There are deadlines e.g., set for making the public transport system accessible by 2010, and for making public buildings accessible by 2005. An unfortunate consequence of the Act is that this 2005 deadline was not kept, so it is being changed very recently by the Parliament. This problem will be discussed by the multimedia presentation.
REFERENCES: