ABSTRACTS

ESSAYS

In her essay Kriszta Kovács argues for the introduction of the system of quotas in Hungary. In her opinion the preferential treatment, and within its framework quotas can help to make sure that everyone has the same fundamental rights and freedoms, and to the same extent.

Zoltán Szente's essay deals with the policy of governments employing systems of quotas, first trying to define the terms equality and discrimination in a way that can be employed by representatives of the different moral notions of equality. Next he examines the theoretical attempts to positive discrimination, and finally he tries to state some normative viewpoints on the bases of which the different discriminative policies can be evaluated.

Antal Örkény's essay makes an attempt to show the reasonable man's most common views and attitudes to the situation of Roma people, and to what extent people think it important for society to take steps against the discrimination that certain groups of Roma people have to suffer.

INTERVIEW

Andrea Krizsán talks to Michel Rosenfeld, Professor of Yeshiva University, Benjamin N. Cardozo School of Law in New York. In relation to his book *Affirmative Action and Justice: A Philosophical and Constitutional Inquiry,* Rosenfeld talks about his notion of equality and how affirmative actions are to be harmonized with it. In his opinion affirmative actions are successful, however, with the US Supreme Court becoming more and more conservative it is probable to make an ideological decision soon, according to which these measures are unconstitutional.

FORUM

Tamás Gyulavári's comment examines the legal framework and restraints of the employment of preferential treatment. He states that since the political transition the constitutional and community legal frameworks of preferential treatment have been developed, together with its detailed rules of legal force. Article 11 of the Act on Equal Treatment and Equal Opportunities is in harmony with the legal requirements of constitutional and community law, but it is to be continuously checked whether preferential statutes, collective agreements and charters of the parties are in harmony with the above mentioned rules.

Csilla Lehoczky Kollonay undertakes the presentation of substantive equality. She argues that the English language has more expressions for the legal means of substantive equality, for example positive action, affirmative action, preferential treatment, reverse discrimination. The mentioned terms show the variety of means, their different "sensitivity" in terms of discrimination. Positive action and affirmative ac-

tion do not neccessarily violate the rule of formal equality. The further away it is from the "target" (entering a workplace or an institution of higher education), the more it aims at making "sources" equal, the more neutral it may be.

Judit Szira's writing emphasizes that maintaining the current system satisfies those justified expectations of global society, which the requirements of present age have in relation to higher education: that not only the children of more fortunate families should enter higher education, but also their less fortunate contemporaries. The students should study together with others that they have to live together with after leaving university, with whom they have to cooperate in solving their everyday problems. Segregated higher education, which makes it possible to enter university only for the children of certain groups, preserves social relations in which — compelled to choose — young people in a more fortunate situation would not wish to be placed either.

János Ladányi is of the opinion that the biggest problem with the present way of thinking about the equality of chances and the resulting programmes is, that it has been clear for years, this costs a lot of money, and yet does not really result in disadvantage groups catching up, in fact it leads to their increased lagging behind. For example the educational programme aimed at integrating Roma children has proved to have increased their segregation at school more than ever in the past fifty years, although billions of Hungarian forints have been spent to integrate Roma and poor children at school. Furthermore, the ostentatious manifestations of segregation based on ethnicity and social situation have even been supported by the different state subventions of educational boards.

Lajos Aáry-Tamás's experience show that fewer decisions of sustaining bodies or schools have been made recently which segregated Roma and non-Roma children. Spontaneous segregation, however, has sped up, that is, the parents of non-Roma children decided to take their children to a different school when noticing that the rate of Roma children increased at the local school. All Ministers of Education have had an answer for spontaneous segregation. According to Aáry, the core of the problem is that all of these efforts were presented as a sole beatific solution. Another common feature of them is that all Ministers stopped the programme of their predecessor, and introduced their own as "The" solution. In this way none of these programmes could be judged either to be successful or unsuccessful, they were too short-lived for it.

Lilla Farkas's standpoint is that of experts who trace this social inequality of chances back to structural and regulational lacks and controversies, the most ostentatious example of which is the segregation of deeply poor and Roma children, which forces them into bad quality kindergartens offering low-level education, and primary and vocational schools not offering a School-Leaving Exam. Due to these structural problems most of the intended confirmatory measures of the Board of Education can be successfully manipulated by the local decision-makers (regional and local governments), the national Churches, heads of institutions and influential parents of the majority. These can turn the money resources from the recipients, thus maintaining and preserving the educational advantage of "well-to-do majority children" and their parents gained from budgetary resources, which later on they can turn into an advantage at the labour market.

DOCUMENTS AND COMMENTARIES

András Kristóf Kádár's essay is investigating the relation of Hungarian regulations and the reversing of the burden of proof regulated in the Act on Equal Treatment and Equal Opportunities, together with the relating problems in legal practice. In particular, he explores what facts have to be proved on the part of the claimant and the defendant to state the violation of the reqirement of equal treatment, and also what particular justificatory means the jurisdictive bodies have in procedures relating to discrimination.

Petra Bárd's writing presents the provisions of EU Council Directive 2000/78/EC of 27th November 2000 establishing a general framework for equal treatment in employment and occupation and the Charter of Fundamental Rights in relation to people with disabilities. She analyses the decision of the Court of Justice in the Chacón Navas case relating to the rights of people with disabilities, and throws light on the deficiencies of the definition of disability.

AFTER DECISION

We are presenting a selection of the judgments of the European Court of Human Rights, together with the recent decisions of the Hungarian Constitutional Court.

PROTECTORS OF RIGHTS

The European Roma Rights Centre and the Legal Defence Bureau for National and Ethnic Minorities filed a complaint with a Committee on the Elimination of Discrimination against Women (CEDAW) on behalf of a woman who claimed that she has been subjected to coerced sterilisation by medical staff at a Hungarian hospital. CEDAW found that since the sterilization surgery was perfomed on the claimant without her full and informed consent, the woman was deprived of her right to decide freely and responsibly on the number and spacing of her children.

REVIEW

Here we recommend two volumes to our readers. A university textbook on fundamental rights and a compilation edited by Albrecht Weber on Fundamental Rights in Europe and North America.