

Summary

Disability Discrimination as a Specific Field of Anti-Discrimination Law?

The aim of this thesis is to put together a complex material discussing disability discrimination from the perspective of anti-discrimination law. Firstly, however, it acquaints the reader with a broader theoretical context and therefore it briefly explains the concept of discrimination and its relationship to the constitutional value of equality. The question, which like a red thread meanders through the following chapters of the thesis, asks whether this type of discrimination is really so much different to deserve such a degree of special approach, which it receives from both the legislators and the judiciary.

This thesis gradually collects findings and information so it could in the end at least indicate the answer to this umbrella question. For this purpose, it presents various models of thinking about disability, namely a medical model and a social model, which in many cases contradict each other. The thesis nevertheless tries to find an ideal combination of them. Furthermore it provides a detailed analysis of relevant legal and judicial definitions of disability as a concept of law, both at the level of international law as well as European and Czech law. Subsequently, it identifies specific characteristics of the approach of anti-discrimination law towards the discrimination against persons with disabilities; the key difference lies in the application of the legal protection of asymmetrical nature, which constitutes a complete exception in the legal system of the European Union. The most important manifestation of this asymmetry – the concept of reasonable accommodation – is also explored in detail.

A solid picture of the current state of the legal protection against disability discrimination is completed by a critique of discrimination by association and multiple discrimination, two recent legal concepts, which appeared in the context of disability as a prohibited discrimination ground in the last years, notably through judicial decision-making.

Key words:

disability discrimination – anti-discrimination law – asymmetric model of legal protection against discrimination