

Abstract

Race and Equality from the Perspective of Law

In this thesis, the author deals with the phenomenon of racial discrimination from the perspective of law. In order to understand the issue, it is necessary to set discrimination in a broader socio-scientific context. Therefore, the author draws not only from legal sources, but also from other social sciences. Other important sources of information were the reports and recommendations of non-governmental organisations, which play an important and irreplaceable role in the area of anti-discrimination policy and its implementation. The main focus of this thesis, therefore, is comprehensive treatment of the issue, taking into account its interdisciplinary context.

The content of the thesis is divided into four parts. The purpose of the first part is to introduce the reader to the issue of discrimination and explain the basic concepts of the theory of race, equality and discrimination. The second part details the international mechanisms of protection against racial discrimination – in the framework of the United Nations organization, International Labour Organization, Council of Europe and the European Union. The third part describes the national system of protection against racial discrimination according to the hierarchy of national sources of law, i.e. in the Constitution and the Charter of Fundamental Rights and Basic Freedoms, the general anti-discrimination law and other laws in individual areas. The last part deals with the different options of defence against discrimination: mediation, complaints addressed to supervisory authorities, assistance provided by non-governmental organizations, media coverage and judicial protection. In her thesis, the author comes to several conclusions.

Firstly, there is, unfortunately, still no regulation in the Czech Republic that would provide a framework for the provision of free legal assistance to those of lesser means. Given that victims of discrimination often come from vulnerable social groups, such regulation would help to ensure effective access by discriminated persons to qualified legal aid.

Moreover, the limitation of transferring the burden of proof in discrimination lawsuits only to an exhaustively enumerated range of situations and only to direct and indirect discrimination seems impractical. In view of the fact that the person who has committed the discrimination often disposes of evidence, it can be almost impossible for the victims of

discriminatory action who do not fit into the established “pigeon-holes” to prove in court that the discrimination actually occurred.

It would also be appropriate to consider the introduction of compulsory “monitoring” in the area of employment in the Czech Republic. A number of European countries have already established this practice and their control authorities, if necessary, have accurate statistical information about the employment policy applied by individual corporations.

A category of its own is the generally low awareness of the discrimination issue. Even the best legal means of defence against discrimination can hardly function in an environment where the awareness of this issue is generally so low. Although the Czech Republic committed itself in a number of international documents to disseminating information and raising awareness about discrimination, activities in this area are developed mainly by non-governmental organizations and the Ombudsman.

Last but not least, the author considers it necessary to emphasize that work relating to discrimination is only one of the activities within the office of the Ombudsman. It would be more appropriate to delegate discrimination issues to a specialized authority, which would operate both at a national and regional level. Such a body would not only have better access to information about discrimination issues, but it would also be likely to have better staff resources and capacity to deal with the problems of discriminated people. Currently this role is partly fulfilled by non-governmental organizations, which, given their legal status, have very limited powers.