

Abstract

Positive Action in Case Law of the ECJ

The general purpose of my thesis is to analyse a relevant sources of European Union law particularly the case law of the European Court of Justice relating to the issue of positive action measures and to find out, what attitude to judicial review ECJ applies in its decision-making in this specific area. The thesis is composed of three main chapters, each of them dealing with different aspects of positive action measures.

First chapter is introductory and defines basic terminology used in the thesis. This chapter is subdivided into two different sections. Section one explains what the concept of positive action means including classification of its different types and provides justification of its application. Second section focuses on the relationship between positive action measures and the concepts of equality and non-discrimination.

Second chapter examines the relevant provisions of EU law which deal with the positive action measures in different areas of application of EU law with special attention to the Charter of Fundamental Rights of the European Union.

Third chapter is subdivided into three sections and provides an outline of relevant case law of ECJ in the area of judicial review of positive action measures. First two sections are intended to examine particular judgements of the ECJ relating to positive action. Final section of the third chapter illustrates the attitude of ECJ to decision-making in the area of positive action measures.

Final conclusion of this thesis is that the ECJ accepts such positive action measures which do not provide automatic and unconditional advantages for members of particular group of persons except of measures, which are intended only to indirect promotion of members of disadvantaged groups in their professional careers including systems of strict quotas.