

ABSTRACT

Discrimination in employment relations with the focus on sexual harassment

This dissertation thesis deals with discrimination in employment relations with the focus on sexual harassment. Its primary objective is to provide a survey of the anti-discrimination or sexual harassment legislation and the means of protection against its manifestations. At the same time this thesis provides a basic overview of the development of legislation prohibiting discrimination on the grounds of sex and also of the development of legislation of the institute of sexual harassment itself. Furthermore, this thesis provides a detailed explanation concerning anti-discrimination legislation in the area of international law and EU law which is supplemented with a specific legal analysis of sexual harassment legislation in the Federal Republic of Germany and the United States of America.

The dissertation thesis is divided into ten chapters. The first chapter focuses on definition of the basic terms used in the field of discrimination, specifically the terms such as direct and indirect discrimination, principle of equal treatment, affirmative action etc. This part then ends with the definition of the term harassment and sexual harassment.

The second part deals with a legal analysis of the development of discrimination legislation in international documents with the main emphasis being laid not only on description of the basic anti-discrimination legislation but also on provision of information about the gradual development in this area and formation of organizations established to combat manifestations of discrimination.

The following third part further develops the previous exposition and provides comprehensive information on the discrimination legislation in EU law. Also this part again pays attention to the organizations which are active in the field of discrimination.

In the context of the provided survey of the discrimination legislation in EU law the fourth part focuses on a legal analysis of the most important judgments of the European Court of Justice which have been adopted so far and which have had an impact on the development of current legislation and practice of interpretation concerning equal treatment.

The fifth part gives a detailed legal analysis of the development of discrimination legislation in Czech law. This analysis also serves as a basis for a summary of the most significant changes in the concept of discrimination and sexual harassment. It describes the development from inconsistent discrimination legislation contained in many different laws to the point when an independent and uniform law regulating discrimination is adopted, i.e. the Anti-discrimination Act.

The sixth part then contains a basic outline of the protection against discrimination which is divided into two main areas, firstly the means of protection against discrimination on a general level and secondly the analysis of specific remedies of protection against discrimination which are available to victims of discrimination.

The seventh part of the thesis is concerned with an analysis of the most important judgments of Czech courts in the area of anti-discrimination including sexual harassment matters. This part includes a description of both real cases, i.e. cases whose circumstances occurred entirely independently of the will of their participants as well as cases of the so-called situation testing which involved cases whose basis was in part prepared by the anti-discrimination organizations with the aim to reveal discrimination practices.

The eighth part of the thesis focuses on a legal analysis of the term sexual harassment and its relation to discrimination. Firstly it defines sexual harassment on the general level and secondly it deals with its manifestations, places of occurrence, originators as well as its victims. This chapter provides a comprehensive description of all elements constituting sexual harassment.

The ninth part of the thesis then follows up with provision of information on the legal concept of sexual harassment in the Federal Republic of Germany. This chapter contains not only a detailed description of the development of legislation in this area but also includes information on the basic approach to fighting discrimination both from the side of employers as well as from the side of the decision-making practice of the relevant courts.

For comparison the tenth part provides information regarding the legal concept of sexual harassment in the United States of America. In addition to the detailed description of the legislation this part again points out the difference of this legal system as well as its approach to discrimination or sexual harassment. It also stresses the economic aspect of the fight against sexual harassment and lays emphasis on the necessity of raising awareness and cooperating with the public.

The thesis concludes with a summary of findings which were obtained on the basis of detailed mapping of sexual harassment issues, also in the context of discrimination legislation in all of the aforementioned areas, i.e. in EU law, the law of the Federal Republic of Germany and the law of the United States of America. The said legal analysis shows not only the relevance of sexual harassment in the society but also the necessity to deal with it, i.e. to prevent manifestations of sexual harassment in the society and provide effective protection to its victims. At the same time it is evident that besides the need for quality discrimination legislation what will play a special role is mainly education and open discussion and awareness among the public.