

Title of the Thesis: Equal Treatment and Discrimination in Labor-Law Relationships

Summary of the Thesis:

The aim of this thesis is to ascertain the level of effectiveness of anti-discrimination law in labor-law relationships on the level of international, EU, and Czech national law. Next, if needed and based on the findings to propose effective and just changes of law or an adoption of extralegal measures.

The structure of the thesis corresponds to its aims. In the first chapter, basic terms used in the anti-discrimination law area are defined.

In the second chapter, I introduce the (for me) most compelling conception of moral justification of the prohibition of discrimination in any normative system. The thesis includes this chapter because an express elaboration of such a conception is a necessary starting point for the formulation of a just solution to discrimination.

The third chapter describes, analyzes and partly also criticizes the valid law on the above mentioned three levels of law (international, EU, Czech).

In the fourth chapter, I mention methods by the use of which one can estimate the extent of discrimination in certain area. I reach a conclusion that the extent of discrimination is significant, in particular with respect to the discrimination of older people (over 50 or 55 years old), members of ethnic or national minorities (Roma, Vietnamese and the like) and young women or women applying for a high position with decision-making powers (e. g. in company boards).

The fifth chapter enumerates typical causes of or motivation behind discriminatory treatment, which are in particular prejudice and conformity. At the same time, the discriminating persons know that getting punished is very unlikely. Persons discriminated against are reluctant to file a suit or motion to the Labor Inspection because they are afraid of a subsequent sanction from the employer and of the uncertainty regarding the result of the court proceeding.

I try to solve this problem in the last chapter where I propose certain changes of the complaint mechanism, which will, however, not lead to substantial decrease in and

punishment for discriminatory treatment. Therefore, I propose to adopt reasonable accommodation and soft quotas mechanisms. Under the former, an employee would have a right to ask the employer for reasonable accommodation if certain employer's policy or measure has a disadvantageous impact on him or her due to a discrimination ground. An example would be the provision of more flexible working time because of parenthood or religion of the employee.

Soft quotas would stand for obligatory percentage of persons from the groups most discriminated against (women/men, Roma, Vietnamese, persons over 50) among employees at every employer. When choosing a new employee the employer would have to choose the applicant with the best qualification and only when the qualification of the best qualified applicants would be equal, only then should the employer give preference to the applicant the admission of whom is necessary in order to meet the quota. So it is possible that some employers will not meet the quota, however, they always have to provide sufficient justification.

Last but not least, I stress the importance of education of all persons to respect human rights and equality.

Key Words: employment discrimination, quota, reasonable accommodation