

Positive discrimination in employment law

Abstract

The topic of the diploma thesis is positive discrimination in the field of employment law. The thesis deals with the principle of equality, the prohibition of discrimination, but above all the exceptions to the principle of equal treatment. These exceptions consist of justified positive discrimination against specific persons, where the reason for the different treatment is the individual's membership of a disadvantaged group.

The main aim of the thesis is to specify and compare the individual situations in which unequal treatment in employment relations is legitimate, especially in order to achieve equality of results and equality of opportunity. The thesis refers to the Czech and international case law dealing with positive discrimination as well as to legal regulations, while the basis for justifying the use of positive measures and differential treatment in general in the Czech legal system is Act No. 198/2009 Coll., on equal treatment and on the legal means of protection against discrimination and on amendments to some laws (Anti-discrimination Act) and Act No. 262/2006 Coll., Labour Code.

The diploma thesis is divided into four chapters, which are interrelated. The first chapter discusses the concept of equality including its historical background and defines one of the possible divisions of equality. Next, it deals with the specific expression of the principle of equality, which is the prohibition of discrimination.

The second chapter defines positive discrimination, including its distinction from „negative“ discrimination. It outlines the issue of acceptance of this concept among the general and specialized public. At the same time, terms are listed that are used interchangeably with positive discrimination and thus function as synonyms (most often the term positive/affirmative action).

The third chapter is focused on sources of law and fundamental case law, which deals primarily with the question of the legitimacy of favouring women in employment relations. The last chapter discusses specific cases of positive discrimination in employment law for specific categories of persons, with the thesis focusing on women, parents, minors and persons with disabilities.

Klíčová slova: positive discrimination, affirmative action, equal treatment