

ABSTRACT

The dissertation deals with the provisions of law applicable to equal opportunities of women and men in labour-law relationships. In this context, it mainly focuses on employment laws; Act No. 198/2009 Coll. on equal treatment and on legal remedies against discrimination and on amendment of some other acts (the Discrimination Act); and other related laws and regulations applicable in this area.

The dissertation is divided into nine main chapters. Its core is comprised of chapters 4 through 8, which contain a detailed analysis of the statutory provisions governing the equal opportunities of women and men in employment in Czech laws, EU laws, and international treaties. Chapters 1 through 3 offer a general introduction to the domain of equal opportunities, while chapter 9 summarises the conclusions and findings of the dissertation.

The first chapter explains why the dissertation deals with equal opportunities of women and men in labour-law relationships, and highlights the importance of this issue in international law and in the EU's social policies. This chapter also underlines the extraordinary community-wide significance of this issue.

The second chapter contains an analysis of the basic terms used with regard to equal opportunities of women and men in labour-law relationships, and explains the significance of this issue within the European Union.

The third chapter analyses the socio-economic situation of women and their position in the labour market in the Czech Republic. With reference to the women's employment rate, their position in the labour market, and the overall economic and political situation in the society, this chapter demonstrates the universal importance of equal opportunities for women and men.

The fourth chapter contains a detailed analysis of how equal opportunities for men and women are provided for in international law. A reference is also made in this context to the question of the executability and enforceability of international law, the possibility of review of performance by the obligated states of their duties stemming from international treaties, and the ability of individuals to lodge complaints regarding the non-fulfilment of such duties and obligations. The three subdivisions of this chapter contain an analysis of the key treaties and conventions of the United Nations, the International Labour Organisation, and the Council of Europe.

The fifth chapter explores equal opportunities of men and women from the perspective of EU law. Since EU regulation applicable to equal opportunities and to the prohibition of discrimination is rather extensive and has been regularly reviewed and developed in light of the judgments of the Court of Justice of the European Union, this chapter analyses not only the primary law of the EU, but also its secondary law. The last section of this chapter deals with the questions of enforceability of the community law, including the question of the horizontal and vertical direct effect.

In the sixth chapter of the dissertation, attention is paid to equal opportunities for women and men under Czech laws, primarily from the perspective of the constitutional order of the Czech Republic, and secondarily from the perspective of the international treaties and covenants by which the Czech Republic is bound; subsequently, the dissertation discusses the cornerstone of the legal regulation governing this issue – the applicable laws. The chapter contains a detailed analysis of equal opportunities from the perspective of Act No. 262/2006 Coll., the Labour Code, as amended; Act No. 198/2009 Coll. on equal treatment and on legal remedies against discrimination and on amendment of some other acts (the Discrimination Act); and Act No. 435/2004 Coll. on employment, as amended.

The seventh chapter analyses the individual principles that apply to equal opportunities of women and men in labour-law relationships, and is divided into three main sections. Section 7.1 explores, in detail, the principle of equal treatment and the prohibition of discrimination, not only analysing these terms and the applicable statutory provisions, but their defining characteristics as well. Special attention is paid to the grounds for discrimination, working conditions, objective reasons for a different treatment, and positive (affirmative) action, not only in the context of labour laws, but also in the context of Act No. 198/2009 Coll. on equal treatment and on legal remedies against discrimination and on amendment of some other acts (the Discrimination Act). In addition to an analysis of the applicable EU laws, this section also deals, in great detail, with the initial and significant judgments of the Czech courts and of the Court of Justice of the European Union. Section 7.2 deals with the prohibition of discrimination in hiring employees, primarily in the context of Act No. 435/2004 Coll. on employment, as amended. The significance of this principle is substantiated by the fact that if discrimination already occurs prior to the formation of an employment relationship, it is unlikely that the other principles of equal treatment will be applied successfully and effectively. This section also provides a detailed analysis of the exemptions from the prohibition of discrimination in hiring employees, with a reference to a case-law of the Czech courts and of the Court of Justice of the European Union. Section 7.3 emphasises the importance of the principle of equal remuneration for men and women. In this context, the author discusses the terms “equal work” and “work of equal value”, and also the term “remuneration” and its content. The dissertation also highlights the differences between the applicable Czech laws and the law of the European Union with regard to ensuring the principle of equal remuneration to all employees. Finally, the seventh chapter explores the cases that have been heard before the Czech courts and the Court of Justice of the European Union.

The eighth chapter, subdivided into five sections, is dedicated to issues of the legal protection of equal opportunities for men and women. Section 8.1 describes the instruments of public law protection of equal opportunities for men and women, emphasising one of the cornerstones of private law – the principle of prevention. This section highlights the individual means of monitoring compliance with the equal treatment principle from a public law perspective, including the penalties for a breach of this principle. Section 8.2 offers an analysis of the instruments of private law protection of equal opportunities for men and women. An emphasis is placed on the difference between discrimination-based actions and actions under the law of personality and privacy protection, while this section also highlights certain ambiguities concerning the right to claim (in addition to moral satisfaction) monetary damages for a non-monetary detriment. Section 8.3 analyses in detail the question of the reverse burden of proof in discrimination disputes, as provided for in § 133a of Act No. 99/1963 Coll. the Code of Civil procedure, as amended, and the application difficulties caused by this principle. Section 8.4 describes the legal protection of equal opportunities for men and women from the perspective of the law of the European Union, including the related case-law of the Czech courts and the Court of Justice of the European Union. Section 8.5 contains a conclusion summarising this issue.

In its ninth and final chapter, the dissertation summarises the analyses contained in the preceding chapters and the relevant conclusions and findings, and proposes *de lege ferenda* recommendations in cases where a different law may appear to be more appropriate, or where a difficulty of interpretation might occur in practice in the future.