

Examination of the labour courts' jurisprudence in respect of the principle of equal treatment

The requirement of equal treatment is one of the most important principles in the field of labour law. Discrimination may occur not only in employment relationships, but there is a significantly increased risk of discriminatory conduct during employment due to the relationship's special structure. The jurisprudence-analysing working group on the implementation of the principle of equal treatment seeks to promote the harmonisation of the courts' practice and to ensure that employers comply with the anti-discrimination rules.

After the entry into force of the Act on Equal Treatment and the Promotion of Equal Opportunities, the rules on equal treatment of the Labour Code have been substantially modified on several occasions, which raises a number of issues to be addressed by the judiciary. The Equal Treatment Act's exhaustive list on protected characteristics includes the term "any other situation". A restrictive interpretation of this term would result in the unjustified limitation of the scope of application of the equal treatment principle, while a broad interpretation of these words would partly undermine the rules on the taking of evidence.

One of the most important elements of the examination of courts' case-law in discrimination cases is to analyse the process of evidence taking. Past experience shows that in many cases the provision of information by the court about the burden of proof, the taking of evidence and the order of evidence taking have been incorrect, and the taking of evidence in discrimination and abuse of rights cases has often blended together.

As the violation of the principle of equal treatment can be complained about both in court and before the Equal Treatment Authority, the working group needs to examine which body is given competence to deal with the different types of complaints and whether there are divergences in their legal interpretations.

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