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DISCRIMINATION IN RECRUITMENT AGAINST CZECH CITIZENS WITH HEARING IMPAIRMENT

Introduction

We are currently facing discriminatory behaviour on the part of employers, including potential ones. This happens for various reasons, most often due to age, gender and disability. As far as disability discrimination is concerned, a specific group are persons with hearing impairment.

Persons with hearing impairment

We understand hearing impairment as a reduced or missing ability to perceive auditory information. There are cases of hearing loss that can be recovered through medical treatment, but there are also cases where the hearing disability is permanent. The most important milestone in the development of a person with hearing impairment is the age at which hearing loss occurs. This moment can affect the “quality” of learning spoken speech.

There are different causes of hearing impairment; they can be divided into three groups:

- congenital cause – genetic or non-genetic congenital developmental defects,
- acquired by a hearing illness – inflammation, tumors, injuries, degenerative diseases,
- traumatic damage – trauma, toxic damage, noise damage.

The types of auditory disorders are also divided according to the time of occurrence of the disability, namely:

- prelingual deafness – congenital or acquired disorder before the person has learned the speech and language,

- postlingual deafness – loss of hearing after the person has learned the speech and language, after about 6 years of age.

Hearing impairment is related to difficulties in communication in spoken language – a person with hearing impairment has difficulty to understand spoken speech, has problems with speech production due to lack of auditory control, or his/her auditory control is insufficient. There are people with hearing impairment who are able to speak understandably thanks to their efforts and hard practice, but there are also people whose speech is very difficult to understand.

The existence of hearing impairment has its consequences; the severity of the hearing impairment is greatly influenced by the duration of hearing impairment. In short, the earlier the hearing impairment occurs, the worse the consequence is for the life of the person with hearing impairment. The life of a person with hearing impairment is affected the most by those defects that are innate or pre-lingually perceptive. The most serious consequence of hearing impairment for persons with prelingual hearing impairment is the barrier in communication and receiving information which limits their chance to understand the situation in an orally communicating society.

Communication with persons with hearing impairments

The communication with persons with hearing impairments occurs in several ways, especially in:

1. Lip-reading – the most common way of communication with a person with hearing impairment and a hearing person. This is an exhausting and demanding way of communication because only a few voices can be read from the lips, while the rest of them must be inferred.
2. Communication in the written form – it is necessary to remember that some persons with hearing impairment perceive the official language as a foreign language, especially the prelingual deaf persons have a different level of language knowledge (from the good level to the literacy level).
3. Sign language – it is a natural, full-fledged and independent language that has its own grammar and vocabulary (sign vocabulary). Sign language is the most appropriate way to communicate with persons with hearing impairment (deaf persons) because it is the way that is perceived visually (by eyes) and the hearing is not needed here.
4. Signed speech form – the official language supported by the signs. It is an artificially created system that has developed by hearing people communicate with deaf people. It is based on using signs and the grammar of the official language. Grammatical words, such as prepositions and clutches that are not used in the sign language, contain new signs. This form of communication

can be a useful lip-reading aid for hard-of-hearing and deaf persons. The basic precondition for using this form is a good knowledge of the language and the signs.

There are several forms of communication with persons with hearing impairment. However, it is important to remember that every person with hearing impairment has different preferences. It is always better to ask the person with hearing impairment about his/her preferences for the communication to avoid misunderstanding and to ensure the communication can be done in an adequate manner.

The Czech sign language is a language that is enshrined in the Act No. 155/1998 Coll., on the communication systems of deaf and deafblind persons, as amended. The goal of the Act is to emphasize the uniqueness of using sign language as the sole and distinctive language of deaf people. Under this Act, deaf and deafblind people have the right to freely choose one of the communication systems specified in the Act which is the best for their needs. Their choice must be respected in the maximum possible measure with the aim that persons with hearing impairment are able to participate equally and effectively in all areas of society. The same applies for the exercise of their legal rights.

Discrimination

Discrimination is a term derived from the Latin word *discriminare* and means “to distinguish”. This is a special term that refers to any distinction between people and which we use in the negative sense of distinguishing people on the basis of their membership to a specific group (regardless of the abilities of a particular individual). Discrimination means any exclusion, restriction or disadvantage of an individual or a whole group of individuals on a discriminatory basis.

The Anti-Discrimination Act¹ contains a division into two types of discriminatory behaviour. The first type is so-called “direct discrimination”. Direct discrimination is an act, including an omission, where one person is treated less favourably than another person is or would be treated in a comparable situation because of his/her race, ethnic origin, nationality, gender, sexual orientation, age, disability, religion, belief or worldview.

The second type is so-called “indirect discrimination”, which means a behaviour where a seemingly neutral decision, distinction or procedure disadvantages or favours an individual over another person on the basis of discrimination deriving from discriminatory reasons. Indirect discrimination based on a disability also means a situation where one party refuses or forgets to take measures that are necessary for enabling the person with disability to have access to em-

¹ The Act No. 189/2009 Coll., on equal treatment and legal means of protection against discrimination and on the amendment of some laws (the Anti-Discrimination Act) as amended.

ployment or a job, a possibility of career advancement, to take advantage of work counselling, to participate in other vocational training or to use services that are intended for the general public.

Discrimination can be further divided into positive and negative discrimination. Positive discrimination is a type of discrimination where different treatment of a particular person or a group of persons is not applied directly against them and does not cause worsening of their position. These measures are taken for their benefit – their aim is to eliminate unjustified differences between the discriminated person(s) and the majority group. Negative discrimination means discrimination in the sense most societies see and understand it. A person or a group of persons are treated less favourably than others in the same situation on a discriminatory basis and also without any reasonable justification. This type of behaviour is not accepted by the society and the law is trying to regulate it.

Czech legislation

In the Czech legislation, there are several documents regulating the issue of discrimination and the protection of the rights of persons with disabilities. The most specific Czech legislation on the issue of employment of persons with disabilities is the Employment Act².

The Employment Act contains provisions on the employment of persons with disabilities. Specifically, it is the provisions of Sections 67–84 of the Employment Act. In accordance with the Employment Act, an increased protection in the labour market is provided to persons with disabilities.

The Convention on the Rights of Persons with Disabilities

The Convention on the Rights of Persons with Disabilities (the Convention) is an international human rights treaty of the United Nations intended to protect the rights and dignity of persons with disabilities. In the Czech Republic, it became effective in 2009.

The Convention deals with the legal treatment of the rights of persons with disabilities, including discrimination. The purpose of the Convention is to promote, ensure and guarantee the rights of persons with disabilities by the Member States of the Convention.

The Art. 27 of the Convention focuses on the issue of work and employment of persons with disabilities. In accordance with this article, persons with disabilities are entitled to work on an equal basis with others, namely:

² The Act No. 435/2004 Coll., on employment as amended (the Employment Act).

- the right to the opportunity to gain a living by work freely chosen or accepted in a labour market,
- the right to a working environment that is open, inclusive and accessible to persons with disabilities.

Member States have an obligation to ensure and promote the implementation of the right to work by taking appropriate steps, including through legislation, to inter alia:

- prohibit discrimination on the basis of disability,
- protect the rights of persons with disabilities to just and favourable work conditions (including equal opportunities and equal remuneration for work),
- ensure that persons with disabilities are able to exercise their labour and trade union rights on an equal basis with others,
- enable persons with disabilities to have effective access to general technical and guidance programmes, placement services and vocational and continuing training,
- promote employment opportunities and career advancement for persons with disabilities in the labour market (including the assistance in finding, obtaining, maintaining and returning to employment),
- promote opportunities for self-employment,
- employ persons with disabilities in the public sector,
- promote the employment of persons with disabilities in the private sector through appropriate measures,
- ensure that reasonable accommodation is provided to persons with disabilities in the workplace,
- promote the acquisition by persons with disabilities of work experience in the open labour market,
- promote vocational and professional rehabilitation for persons with disabilities.

Discrimination against Czech Citizens with Hearing Impairment in Recruitment

In 2016, the author published a diploma thesis where she conducted research on the issue of discrimination against persons with hearing impairment. The research followed up on a qualitative survey in the form of a questionnaire in which the attitudes and experiences of persons with hearing impairment in the Czech Republic with discriminatory behaviour during their seeking for a job were identified. The results of the questionnaire revealed a high number of respondents who experienced discrimination during their seeking for a job.

The research aimed to prove whether there is a real problem. In the research, employers' reactions to applicants with hearing impairment were identified. For

better comparison, two fictional CVs were created, one of them represented a hearing job seeker and the other a deaf job seeker. The deaf job seeker's CV was inspired by the CV of the author's father who is also deaf. This CV contained the phrase that "the applicant is a person with hearing impairment who is able to communicate without barriers".

These two CVs were sent to 17 pre-selected advertisements (all were welding positions). The received responses were processed. Out of the total 17 responses, 12 companies responded to the hearing job seeker sending him an interview invitation, asking to provide missing information (telephone number etc.) or offering another welder's position. In five cases the companies did not respond at all. No company rejected his application.

Only three companies answered to the deaf job seeker. Other three companies have rejected him (in one case explaining that an audio examination is required for the welder position, even though it was not stated in their advertisement). From three companies, the deaf job seeker received an e-mail with a request to provide his phone number. There was an e-mail sent to them that he was a deaf candidate. Out of these three companies, two companies did not respond, and the third company sent a negative response explaining that the applicant was found to be inappropriate due to health restrictions. In eight cases, the deaf job seeker did not receive any answer (of which five companies were the same as in the case of the hearing job seeker).

Benefits of employing persons with hearing impairment

Employing and supporting the employment of persons with disabilities are one of the forms of state support for the return of persons with disabilities to normal social life.

Employing persons with hearing impairment (including persons with disabilities) has several advantages. First of all, there is a social benefit; it is better to employ a person with a disability than to have a person with a disability who is dependent on social benefits.

Helping persons with disabilities is certainly a moral necessity (duty) of other people. By employing persons with disabilities employers can help these people to maintain their mental balance and gain self-esteem, the feeling of social usefulness and expertise. By creating diversity in working teams it is possible to achieve overall stress reduction in the workplace, improve the social atmosphere and reduce the fluctuation of employees.

Employers can also gain a competitive advantage thanks to the fact that customers prefer to buy goods from manufacturers that are trying to behave considerably towards the society. The same applies to employees.

In addition to these benefits, employers in the Czech Republic have the opportunity to save money. In case of non-fulfilment of the condition of employing persons with disabilities (4% of the total number of employees – this condition applies to companies that employ more than 25 employees), the company is obliged to pay a specific amount to the state budget. This is not the only advantage, there are more benefits.

Conclusion

In conclusion, it is necessary to remember that persons with hearing impairment have numerous communication and information barriers due to their hearing impairment. Because of these barriers and different ways of communication (Czech sign language), they represent a disadvantaged group, and that is why they face obstacles on their way to find a good job in the labour market.

Persons with hearing impairment are rarely aware of their possibilities to defend themselves against possible discriminatory behaviour by potential employers. The main reason for this innocence is the fact that persons with prelingual hearing impairment are Czech sign language users, so the Czech language is a foreign language for them. Persons with hearing impairment have often problems with understanding written text in the Czech language, which implies even bigger difficulties with understanding the Czech legal text. This is a fact that does not only apply to the Czech Republic but also to all the states around the world, because problems with reading comprehension can happen to all deaf people around the world.

The absence of the Czech case law is one of the reasons why there is not a case law on this particular issue. It could be corrected by the state and the relevant institutions through appropriate translation of basic legislation into the Czech sign language and through disseminating of these information among persons with hearing impairments.

The aim of this work is to point out the issue of discrimination of persons with hearing impairment in their job seeking process, and bring into focus for others that, despite the existence of relevant legal regulations, there is a real problem with discriminatory behaviour against persons with hearing impairment from potential employers.

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Summary

This work deals with discrimination in recruitment against people with hearing impairment. The work defines basic concepts of the discrimination, hearing impairment and the Czech sign language including the basic legislation on this issue. In this context, research has been carried out in order to identify attitudes and experience of people with hearing impairment and the reactions of employers to a hearing-impaired job seeker.

Keywords: discrimination, recruitment, persons with hearing impairment

DYSKRYMINACJA W ZAKRESIE REKRUTACJI OBYWATELI CZESKICH Z UPOŚLEDZENIEM SŁUCHU

Streszczenie

Niniejsze opracowanie dotyczy dyskryminacji w zakresie rekrutacji osób z wadami słuchu. W artykule zdefiniowano podstawowe pojęcia dotyczące dyskryminacji, upośledzenia słuchu oraz czeskiego języka migowego, w tym podstawowe akty prawne w tym zakresie. W tym kontekście przeprowadzono badania mające na celu określenie postaw i doświadczeń osób z wadami słuchu oraz reakcji pracodawców na poszukującego pracy z wadą słuchu.

Słowa kluczowe: dyskryminacja, rekrutacja, osoby z wadami słuchu