



NEWS REPORT

Update of flash report nr: 668-CZ-9
Date: 3 July 2009
Expert: Pavla Boučková
Title: Supreme Administrative Court Decision on indirect discrimination case
Country: Czech Republic

Context

Indirectly discriminatory provisions of national law

Issue at stake:

The Court did not find the provisions on common taxation of married couples indirectly discriminatory, but decided that the same provisions were applied unlawfully by the Tax Office.

Ground of discrimination:

of Other (gender)

Source:

national court decision

Field:

employment, self-employment, social advantages

Legislative provisions:

Sec. 7c (duty to submit individual tax declaration because of minimal income) and Sec. 13a (common taxation of married couples) of the Law No. 586/1992 Coll. on income tax.

Content

Case: A self-employed interpreter and his wife (lawyer), considered themselves to be indirectly discriminated against, when the Tax Directorate refused to consider their tax declaration commonly, according to the more favourable conditions of the common taxation for married couples. According to these provisions, the married couples are taxed commonly including situations where one partner has no income at all. However, if husband or wife has only minimal income from self employment activity

only, the couple is to be taxed separately. The plaintiff argued that the effect of the tax provisions is indirectly discriminatory, as the low income was caused by childcare responsibilities, and therefore also contrary to EU legislation. He invoked the direct effect of EU legislation, and requested the tax declaration to be re-considered under provisions on common taxation of married couples. The Municipal Court of Prague rejected the complaint with decision no. 11 Ca 161/2007-39 of 24.7.2008 and the plaintiff lodged an appeal to the Supreme Administrative Court

Decision of the Court: The Supreme Administrative Court reversed the judgment of the Prague Municipal court on 21.5.2009 with decision no. 7 Afs 103/2008-77.

Internet link source and additional information:

<http://www.nssoud.cz/main.aspx?cls=anonymZneni&id=19975&mark=>