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Employer's Liability for Compensation in Case of the Violation of the Principle of Equal in Employment as Interpreted by German Law

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Abstract:

This article attempts to illustrate the normative regulation of equal treatment of employees according to German law from the perspective of Europeanisation of national laws. The solutions adopted by the European directives: directive 2000/78/EC of the Council of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, directive 2000/43/EC of the Council of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment between men and women in matters of employment and occupation (recast), have materially influenced the legislation of the EU member states, including the shape of the German act on equal treatment of 14 June 2006 (Allgemeines Gleichbehandlungsgesetz).

The Allgemeines Gleichbehandlungsgesetz act defines direct and indirect discrimination, harassment and sexual harassment. This act also determines the obligations of the employer to protect the employee against discrimination, including obligations to provide information, prevent and intervene.

The Allgemeines Gleichbehandlungsgesetz act provides for a particular regime of the employer's liability for the violation of the principle of equal treatment in employment. The *ratio legis* is to ensure effective protection of an employee against discrimination. This objective has been accomplished mainly by creating normative grounds for the award of pecuniary compensation for damage or loss sustained in case of the violation of the ban on discrimination in employment (Art. 15 par. 2 AGG). The injured employee is also entitled to claim the redress of the material damage (Art. 15 par. 1 AGG).