

Metropolia IPW 2015 - Course Prof. Dr. Holger Buck

Protection of Employees and Applicants Case Study

Ms. Meister, a Russian national, holds a Russian degree in “systems” engineering, which has been recognized in Germany as equivalent to a German degree awarded by a university of applied sciences. The German company Speech Design published two advertisements successively, with a similar content, to recruit an “experienced software developer”.

Ms. Meister responded to those two advertisements by applying for the position. Both applications were rejected, without the company having invited Ms. Meister to an interview and without telling her for which reasons her applications were rejected.

Case based on the judgement of the European Court of Justice (ECJ) of 19 April 2012 - C-415/10 - Meister

Question decided by the ECJ (by request of the Bundesarbeitsgericht (German Federal High Labour Court):

Does the applicant for a position who plausibly states that he or she fulfills the requirements for the position have a right to be informed whether the employer has employed another applicant and, if so, based on which criteria?

EU Directives concerned: Art. 8 (1) of the Directive no. 43/2000; Art. 10 (1) of the Directive No. 78/2000 and Art. 19 (1) of the Directive No. 54/2006 (see *List EU Employee Protection*).

Questions for discussion:

1. How do you think the ECJ has decided taking into account the values of the EU legislator?
2. What is the business ethics aspect of the case?
3. Do **you** think the protection of the applicant is warranted in this situation?
4. Do you see possibilities for a smart applicant of taking advantage of the law? If so: Should the law protect the employer?
5. What other aspects come to your mind?