

Subject-matter concerned	<input checked="" type="checkbox"/> 1) non-discrimination on grounds of nationality <input type="checkbox"/> 2) freedom of movement and residence - linked to which article of the Directive 2004/38 <input type="checkbox"/> 3) voting rights <input type="checkbox"/> 4) diplomatic protection <input type="checkbox"/> 5) the right to petition
Decision date	9 March 2010
Deciding body (in original language)	Комисия за защита от дискриминация (КЗД)
Deciding body (in English)	Commission for Protection against Discrimination (CPD)
Case number (also European Case Law Identifier (ECLI) where applicable)	Case file No 11 of 2007
Parties	Commission for Protection against Discrimination (CPD) vs private utility company
Web link to the decision (if available)	Not available.
Legal basis in national law of the rights under dispute	Protection against Discrimination Act (<i>Закон за защита от дискриминация</i>), Art. 4, Para (2), Art. 12, Para 1

Key facts of the case (max. 500 chars)	A private utility company published a job advertisement, in which one of the language requirements for the position were defined as ‘mother tongue – Bulgarian’. In addition, the advertisement used the female form of the Bulgarian word for secretary (<i>секретарка</i>). A member of the Commission for Protection against Discrimination (CPD) (<i>Комисия за защита от дискриминация, КЗД</i>) saw that advertisement and suggested to the commission to open proceedings upon its own initiative for multiple discrimination on the grounds of ethnic origin and sex. During the proceedings the commission also examined the case in view of discrimination on the ground of citizenship.
Main reasoning / argumentation (max. 500 chars)	In her report to the Commission for Protection against Discrimination (CPD) (<i>Комисия за защита от дискриминация, КЗД</i>), the member of the commission argued that the requirement for Bulgarian as mother tongue makes the vacant position accessible only to Bulgarians, which represent unequal treatment of all other potential candidates meeting the other requirements. The utility company argued that the wording of the advertisement was used by mistake and that the company’s internal rules explicitly prohibit the inclusion of any requirement for nationality in the job descriptions of vacant positions.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	In its decision, the Commission for Protection against Discrimination (CPD) (<i>Комисия за защита от дискриминация, КЗД</i>) examined not only the grounds of ethnic origin and sex, but also the ground of nationality. The commission accepted the explanations provided by the utility company, but noted that, in the future, it must define the language requirements more precisely in order to prevent discrimination when recruiting personnel.
Results (e.g. sanctions) and key consequences or implications of the case (max. 500 chars)	The Commission for Protection against Discrimination (CPD) (<i>Комисия за защита от дискриминация, КЗД</i>) did not find the utility company guilty of discrimination and did not impose the requested sanctions and mandatory recommendations.
Key quotations in original language and translated into English with reference details (max. 500 chars)	<i>„В откритото заседание ответната страна установява, че е недопустимо според вътрешните правила на „Т. В.“ ЕАД, въведени от едноличния собственик ЧЕЗ А.С., Република Чехия, да се поставя като условие за заемане на съответната длъжност в дружеството критерий като „гражданство“ на кандидата. Комисията кредитира обясненията за допусната техническа грешка поради недоброто познаване на българския език от съответния служител, но предупреждава, че за в бъдеще ответната страна – работодател следва прецизно да формулира обявите за вакантните длъжности с оглед изискването за владее на един или друг език.“</i>

	<p><i>“During the hearing, the defendant argued that it was inadmissible under the internal rules of ‘T.V.’ EAD, introduced by the sole owner CEZ A.S., Czech Republic, to set as a condition for occupying the relevant position in the company a criterion such as the ‘citizenship’ of the applicant. The Commission has credited the explanations for a technical error because of poor knowledge of the Bulgarian language by the respective employee, but warns that in the future the defendant in its capacity of employer should accurately formulate job vacancy notices in view of the requirement for fluency in one language or another.”</i></p> <p>Bulgaria, Commission for Protection against Discrimination (<i>Комисия за защита от дискриминация</i>), Decision No 38 of 7 May 2007 on case file No 11/2007 (<i>Решение № 38 от 7.05.2007 г. на КЗД по преписка № 11/2007 г.</i>), 7 May 2007</p>
<p>Has the deciding body refer to the Charter of Fundamental Rights. If yes, to which specific Article.</p>	<p>No.</p>