

Subject-matter concerned	☒ 1) non-discrimination on grounds of nationality ☐ 2) freedom of movement and residence - linked to which article of the Directive 2004/38 ☐ 3) voting rights ☐ 4) diplomatic protection ☒ 5) the right to petition
Decision date	19 July 2013
Deciding body (in original language)	Rechtbank Den Haag
Deciding body (in English)	District Court The Hague
Case number (also European Case Law Identifier (ECLI) where applicable)	ECLI:NL:RBDHA:2013:10252
Parties	Plaintiff and the Minister of Education, Culture and Science, defendant (eiser en de minister van Onderwijs, Cultuur en Wetenschappen, verweerder)
Web link to the decision (if available)	https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBDHA:2013:10252
Legal basis in national law of the rights under dispute	Policy rule with regards to the policies checking employment in the context of migration (Beleidsregel controlebeleid migrerend werknemerschap) The Netherlands, Policy rule with regards to the policies checking employment in the context of migration (Beleidsregel controlebeleid migrerend werknemerschap), 13 December 2012

Key facts of the case (max. 500 chars)	The plaintiff has the Bulgarian nationality. He wants to study in the Netherlands, but in order to be eligible for a full study grant, he needs to work 32 hours a month. He says that he needs a permit to work in the Netherlands as he is a Bulgarian (and he is treated differently from other EU-nationals, in this respect, there is no free movement of workers). It is therefore more difficult for him to find work than it is for other EU-nationals. He is discriminated on the basis of his Bulgarian nationality and a hardship clause should be applied, to help him in his particular situation (not being able to find a job and therefore not being able to study). A hardship clause is used to deviate from the rules in exceptional cases. The Court says his situation is normal, so not an exceptional case, for all Bulgarians and the EU Member States have agreed on the fact that they need a work permit in other Member States (so it is justified that there is no free movement of workers) when Bulgaria entered the European Union. The plaintiff should have known this and there is nothing exceptional about his case, so that a hardship clause does not apply.
Main reasoning / argumentation (max. 500 chars)	Bulgarian nationals are justifiably treated differently from other EU citizens when they want to work in other EU Member States, as it was agreed when Bulgaria became an EU Member State that there would be no free movement of workers until 1 January 2014. This case took place before that (judgement is pronounced in 2013). According to the court, the plaintiff could have known this when he wanted to study in the Netherlands and had to meet the requirement of working for 32 hours a month in order to be eligible for a full study grant. Working for 32 hours a month in this context applies to all EU citizens.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	Bulgarian citizens are treated differently from other EU citizens in the Netherlands (there is no free movement of workers) as there is a rule of transition, agreed upon when Bulgaria became an EU Member State.
Results (e.g. sanctions) and key consequences or implications of the case (max. 500 chars)	The plaintiff cannot easily study in the Netherlands with a full grant, because it is difficult for him to work 32 hours a month (he needs a work permit).
Key quotations in original language and translated into English with reference details (max. 500 chars)	5. Tussen partijen is niet in geschil dat voorwaarde voor de toekenning van volledige studiefinanciering is het verrichten van arbeid op grond van een arbeidsovereenkomst voor 32 uren per maand. Evenmin is in geschil dat eiser hier te lande geen arbeid in loondienst kan verrichten als zijn werkgever ten behoeve van hem niet over een tewerkstellingsvergunning beschikt, omdat voor Bulgaarse onderdanen nog geen vrij verkeer van werknemers bestaat. Dit vloeit voort uit de afspraken die tussen de EU-lidstaten en Bulgarije zijn gemaakt bij de toetreding van Bulgarije tot de EU. Het is dus voor eiser (slechts) mogelijk om volledige studiefinanciering te verkrijgen indien hij arbeid verricht voor een werkgever die ten behoeve van hem over een tewerkstellingsvergunning beschikt. De omstandigheid dat het voor eiser

	moeilijk is om hier te lande te voldoen aan het vereiste om 32 uren per maand arbeid in loondienst te verrichten om in aanmerking te komen voor volledige studiefinanciering, is een omstandigheid die is verdisconteerd in deze toetredingsafspraken en de daaruit voortvloeiende regelgeving. Naar het oordeel van de rechtbank is dan ook geen sprake van conflicterende wet- en regelgeving. Evenmin is naar het oordeel van de rechtbank sprake van discriminatie van Bulgaarse onderdanen. Alle EU-onderdanen dienen immers minimaal 32 uren per maand te werken om in aanmerking te komen voor volledige studiefinanciering. Dat dit voor Bulgaren moeilijker te realiseren is, doet hier niet aan af. Eisers beroep op het arrest Bidar slaagt ook niet. In die zaak stelde het Hof van Justitie vast dat de Britse regelgeving het volledig onmogelijk maakte dat een student uit een andere Lidstaat aan de voorwaarden kon voldoen voor financiële steun ter dekking van de kosten van levensonderhoud. Daarvan is in dit geval geen sprake, ook al zal het voor eiser, zoals reeds opgemerkt, moeilijk zijn om aan de voorwaarden te voldoen.
Has the deciding body refer to the Charter of Fundamental Rights. If yes, to which specific Article.	5. The parties do not dispute about the fact that it is a requirement for receiving the full study grant to work on the basis of a contract of employment for 32 hours a month. It is not disputed either that the plaintiff cannot work here for an employer if his employer does not have a work permit in the former's name, because there is no free movement of workers for Bulgarian citizens yet. This follows from the agreements which were made by the EU Member States and Bulgaria when Bulgaria entered the EU. Therefore, it is (only) possible for the plaintiff to get a full study grant if he works for an employer who has a work permit for the former's benefit. The fact that it is difficult for the plaintiff to meet the requirement to work for an employer for 32 hours a week in this country is something that has been taken into account in the agreements made at the time of the entry to the EU by Bulgaria and the rules and regulations which followed. The District Court feels that there is no conflict there, therefore. Nor are Bulgarian citizens discriminated. All EU citizens have to work 32 hours a month in order to be eligible for a full study grant. The fact that this is more difficult for Bulgarians does not change this. The plaintiff's reliance on the case Bidar fails, too. In the case the European Court of Justice held that the British rules and regulations made it completely impossible for a student from another Member state to meet the requirements of financial support to cover the cost of subsistence. This is not the case here, even though it will be difficult for the plaintiff, as stated before, to meet the requirements.