



The installation of electricity meters at an inaccessible height in a district densely populated by Roma is liable to constitute discrimination on the grounds of ethnic origin when such meters are installed in other districts at a normal height

Even assuming that it is established that there has been abuse of the meters in that district, such a practice seems to be disproportionate to the dual objective consisting in ensuring the security of the electricity transmission network and the due recording of electricity consumption

An EU directive on equal treatment¹ prohibits any discrimination on the grounds of racial or ethnic origin in relation, inter alia, to access to and the supply of goods and services.

Ms Nikolova runs a grocer's shop in the 'Gizdova mahala' district of the town of Dupnitsa (Bulgaria). That district is inhabited mainly by persons of Roma origin.

In 1999 and 2000, CHEZ RB, an electricity distribution undertaking, installed the electricity meters for all the consumers of that district on the concrete pylons of the overhead electricity supply network, at a height of between six and seven metres. In the other districts of the town (where Roma are not present in such great numbers), the meters installed by CHEZ RB are placed at a height of 1.70 metres, usually inside the consumer's property or on the façade or the wall around the property. According to CHEZ RB, that difference in treatment is justified by the increased frequency of tampering with and damage to meters and by the numerous unlawful connections to the network in the district concerned.

In December 2008, Ms Nikolova lodged a complaint with the Komisia za zashtita ot dikriminatsia (Commission for Protection against Discrimination; 'the KZD'), contending that the installation of the meters in an accessible location was due to the fact that most of the inhabitants of the district at issue were of Roma origin. Although Ms Nikolova was not of Roma origin herself, she considered that she too was suffering discrimination because of this practice.

The KZD found that Ms Nikolova had indeed been discriminated against compared with the customers whose meters were in accessible locations. CHEZ RB then brought an appeal against that decision before the Administrativen sad Sofia-grad (Administrative Court, Sofia). That court has asked the Court of Justice whether the contested practice amounts to prohibited discrimination on the grounds of ethnic origin.

In today's judgment, the Court of Justice states, first, that **the principle of equal treatment applies not only to persons who have a certain ethnic origin, but also to those who, although not themselves a member of the ethnic group concerned, suffer, together with the former, less favourable treatment or a particular disadvantage on account of a discriminatory measure.**

Secondly, the Court points out that the presence in the district at issue of inhabitants who are not of Roma origin does not in itself rule out that the contested practice was imposed on account of the ethnic origin shared by most of that district's inhabitants (namely Roma ethnic origin). It will

¹ Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (OJ 2000 L 180, p. 22).

nevertheless be for the Bulgarian court to **take account of all the circumstances surrounding that practice in order to determine whether it has in fact been imposed for such a reason of an ethnic nature and thus constitutes direct discrimination** under the directive.

The evidence which may be taken into consideration in this connection includes, in particular, the fact that the practice at issue has been established only in districts which have Bulgarian nationals of Roma origin as the majority of their population. Also, the fact that CHEZ RB has asserted before the KZD that the damage and unlawful connections are mainly due to persons of Roma origin is capable of suggesting that the contested practice is based on ethnic stereotypes or prejudices.

The Bulgarian court will also have to take account of the compulsory, widespread and lasting nature of the practice complained of. That practice affects without distinction all the inhabitants of the district concerned, irrespective of whether their individual meters have been the subject of abuse and, as the case may be, who has committed that abuse. Thus, the practice at issue may be perceived as suggesting that the inhabitants of that district are, as a whole, considered to be potential perpetrators of unlawful conduct. In this context, the Court states that the practice amounts to **unfavourable treatment** to the detriment of the inhabitants concerned on account of both its offensive and stigmatising nature and the fact that it is extremely difficult or even impossible for them to check their electricity meters for the purpose of monitoring their consumption.

Thirdly, if the Bulgarian court were not to hold that the practice amounts to direct discrimination on the grounds of ethnic origin, the Court observes that **that practice could**, in principle, **constitute indirect discrimination**. Assuming that the practice has been carried out exclusively in order to respond to abuse committed in the district concerned, it would be based on apparently neutral criteria while affecting persons of Roma origin in considerably greater proportions. Thus, **it would give rise to a disadvantage in particular for those persons compared with other persons not possessing such an ethnic origin**.

In this connection, the Court notes that protection of the security of the electricity transmission network and the due recording of electricity consumption constitute legitimate aims which may, in principle, justify such a difference in treatment. However, it is also necessary for CHEZ RB to succeed in proving that abuse has in fact been committed in respect of the electricity meters in the district concerned and that a risk of such abuse still remains. While recognising that the contested practice constitutes an appropriate means for the purpose of achieving those aims, the Court nevertheless states that the Bulgarian court will have to examine whether other appropriate and less restrictive measures existed for resolving the problems encountered.

Even if no other measure as effective as the practice complained of exists for the purpose of achieving the abovementioned aims, the Court observes that that practice seems to be disproportionate to those aims and to the legitimate interests of the inhabitants of the district concerned. It will be for the Bulgarian court to determine whether that is in fact the case, in the light in particular of the offensive and stigmatising nature of the practice in question and of the fact that it has, without distinction and for a very long time, denied the inhabitants of an entire district the possibility of monitoring their electricity consumption regularly.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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