

**Judgment of the Court (Second Chamber) of 9 March 2017 (request for a preliminary ruling from the Varhoven administrativen sad — Bulgaria) — Petya Milkova v Izpalnitelen direktor na Agentsiata za privatizatsia i sledprivatizatsionen kontrol**

(Case C-406/15) <sup>(1)</sup>

*(Reference for a preliminary ruling — Social policy — Equal treatment in employment and occupation — United Nations Convention on the Rights of Persons with Disabilities — Articles 5 and 27 — Directive 2000/78/EC — Article 7 — Enhanced protection in the event of dismissal of employees with disabilities — No such protection for civil servants with disabilities — General principle of equal treatment)*

(2017/C 144/08)

Language of the case: Bulgarian

**Referring court**

Varhoven administrativen sad

**Parties to the main proceedings**

Applicant: Petya Milkova

Defendant: Izpalnitelen direktor na Agentsiata za privatizatsia i sledprivatizatsionen kontrol

**Operative part of the judgment**

1. Article 7(2) of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, read in the light of the United Nations Convention on the Rights of Persons with Disabilities, approved on behalf of the European Community by Council Decision 2010/48/EC of 26 November 2009, and in conjunction with the general principle of equal treatment enshrined in Articles 20 and 21 of the Charter of Fundamental Rights of the European Union, must be construed as allowing legislation of a Member State, such as that at issue in the main proceedings, which confers on employees with certain disabilities specific advance protection in the event of dismissal, without conferring such protection on civil servants with the same disabilities, unless it has been established that there has been an infringement of the principle of equal treatment, that being a matter for the referring court to determine. When making that determination, the comparison of the situations must be based on an analysis focusing on all the relevant rules of national law governing the positions of employees with a particular disability, on the one hand, and the positions of civil servants with the same disability, on the other, having regard, in particular, to the purpose of the protection against dismissal at issue in the main proceedings;
2. In the event that Article 7(2) of Directive 2000/78, read in the light of the United Nations Convention on the Rights of Persons with Disabilities and in conjunction with the general principle of equal treatment, precludes legislation of a Member State such as that at issue in the main proceedings, the obligation to comply with EU law would require that the scope of the national rules protecting employees with a particular disability should be extended, so that those protective rules also benefit civil servants with the same disability.

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<sup>(1)</sup> OJ C 337, 12.10.2015.