

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	7 February 2011
Deciding body (in original language)	La Haute autorité de lutte contre les discriminations et pour l'égalité (HALDE).
Deciding body (in English)	High Authority for the fight against discrimination and for equality
Case number (also European Case Law Identifier (ECLI) where applicable)	Ruling No. 2011-40
Parties	Minister for Higher education and Research (<i>Ministre de l'Enseignement supérieur et de la Recherche</i>)
Web link to the decision (if available)	www.defenseurdesdroits.fr/fr/actions/protection-des-droits-libertes/decision/deliberation-ndeg2011-40-du-7-fevrier-2011-relative
Legal basis in national law of the rights under dispute	Article L. 612-3 of the Education Code

Key facts of the case (max. 500 chars)	<p>The national education system set up the “Admission post-bac” site (APB) to simplify the process for students wishing to be registered for training accessible after obtaining the baccalaureate. This site brings together, in one tool, all higher education training and in particular makes it possible to obtain information on courses, higher educational establishments (links to their sites), to express the desire to continue studying, and to administratively register with the requested establishments. The service offered guarantees better optimization of the assignment of places available for the various courses.</p> <p>Yet, the use of the services offered by the site is refused to any person not having French nationality, Community nationals included. For such people, the following is shown, in effect, at the time of an attempt to register: “only candidates of French nationality can register for training on the APB site”.</p> <p>People not having French nationality are invited to approach the requested training institutes themselves.</p> <p>The Minister for higher education and research referred to the HALDE on 1 February 2011 with a request for an opinion relating to the conditions of access to the “APB” internet site for students and high-school pupils who do not have French nationality.</p>
Main reasoning / argumentation (max. 500 chars)	<p>Nationals having the nationality of a Member State of the European Union benefit from perfect equality in access to the labour market. Therefore, apprenticeship training should not be subjected to a prior obligation of having a work permit. Consequently, providing less favourable treatment to Community nationals in the access to a service allowing administrative registration for apprenticeship training because of their nationality, constitutes discrimination prohibited by Article 18 of the TFUE. However, nationals of Bulgaria and Romania remain subjected to the obligation to obtain a work permit for any paid activity during the transition period regarding free access to the labour market. Registering with the site could be open to them with a mention of the applicable law as regards work permits and apprenticeship contracts.</p>
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	<p>Discrimination in training</p>
Results (e.g. sanctions) and key consequences or implications of the case (max. 500	<p>The HALDE recommended:</p> <p>- opening access to the “APB” site and pre-registration for apprenticeship training to any pupil who requests this, whatever their nationality or place of residence;</p>

chars)	<p>- providing detailed information to users of the site, intended to allow them to understand residence permits which they must be in possession of to conclude an apprenticeship contract, so that the interested parties are aware of the risks of refusal to which they are exposed at the time of the final registration for the requested training.</p>
Key quotations in original language and translated into English with reference details (max. 500 chars)	<p>Nationals having the nationality of a Member State of the European Union benefit from perfect equality in access to the labour market. This equality, of which the corollary is the prohibition of any discrimination, direct or indirect, on grounds of nationality, has its basis in Article 18 of the Treaty on the Functioning of the European union (TFUE). In no case may apprenticeship training therefore be subjected to a prior obligation of having a work permit. Consequently, in providing less favourable treatment to Community nationals in the access to a service allowing, in particular, administrative registration for apprenticeship training because of their nationality, constitutes discrimination prohibited by the fundamental principle of prohibiting any discrimination based on nationality provided for in Article 18 of the TFUE.</p> <p>These nationals [of Bulgaria and Romania] remain subjected to the obligation to obtain a work permit for any paid activity during the transition period regarding free access to the labour market. Registering with APB the site - which is not the same as registering for the requested training - could nevertheless be open to them, as was proposed for foreigners not having yet having a work permit, with mention of the applicable law as regards work permits and apprenticeship contracts.</p> <p><i>Les ressortissants ayant la nationalité d'un Etat membre de l'Union européenne bénéficient d'une parfaite égalité dans l'accès au marché du travail. Cette égalité, dont le corollaire est la prohibition de toute discrimination, directe ou indirecte, à raison de la nationalité, trouve son fondement dans l'article 18 du Traité sur le fonctionnement de l'union européenne (TFUE). En aucun cas, une formation en apprentissage ne saurait donc être soumise à une obligation préalable d'autorisation de travail. En conséquence, traiter moins favorablement les ressortissants communautaires dans l'accès à un service permettant notamment l'inscription administrative à des formations en apprentissage et ce, en raison de leur nationalité, constitue une discrimination prohibée par le principe fondamental de prohibition de toute discrimination à raison de la nationalité prévue à l'article 18 du TFUE.</i></p> <p><i>Ces ressortissants [Bulgares et Roumains] demeurent soumis à l'obligation d'obtenir une autorisation de travail pour toute activité salariée pendant la période transitoire en matière de libre accès au marché du travail. L'inscription au site APB - qui ne vaut pas inscription aux formations sollicitées – pourrait néanmoins être ouverte, à l'instar de ce qui a été proposé pour les étrangers ne disposant pas encore d'autorisation de travail, avec mention du droit applicable en matière d'autorisation de travail et de contrat d'apprentissage.</i></p>

Has the deciding body refer to the Charter of Fundamental Rights. If yes, to which specific Article.	No
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