

Subject-matter concerned	<input type="checkbox"/> 1) non-discrimination on grounds of nationality <input checked="" type="checkbox"/> 2) freedom of movement and residence - Articles 7 and 8 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	25.01.2016
Deciding body (in original language)	<i>Helsingin hallinto-oikeus/Helsingfors förvaltningsdomstol</i>
Deciding body (in English)	Helsinki Administrative Court
Case number (also European Case Law Identifier (ECLI) where applicable)	Helsingin HAO 25.01.2016 16/0082/6 ECLI:FI:HELHAO:2016:16.0082.6
Parties	X v the Helsinki Police Department [<i>Helsingin poliisilaitos/polisinrättningen i Helsingfors</i>]
Web link to the decision (if available)	www.finlex.fi/fi/oikeus/hao/2016/helsingin_hao20160082 (summary of the case)
Legal basis in national law of the rights under dispute	Aliens Act (<i>ulkomaalaislaki/utlänningslag</i>) no. 301/2004, as amended
Key facts of the case (max. 500 chars)	Note that this executive summary has the purpose to make us understand: 1. the facts of the case (so the “real life story”)

	<p>2. the legal background against which the case unfolded (what are the relevant legal norms that are applied)</p> <p>A Spanish citizen had arrived in Finland in order to work, study and learn the language. He intended to stay in the country permanently and wished to register his right of residence. The police rejected the application for registration on grounds that the applicant did not have sufficient funds for his residence. In making its decision, the police took into account the applicant's income from part-time work and the funds in his bank account at the time.</p> <p>According to the Aliens Act, EU citizens may reside in Finland for more than three months if they are paid employees or self-employed persons or have sufficient funds during their time of residence. They must also register their residence and in that connection present proof of sufficient funds, if they are economically inactive. In this case, the applicant had presented proof of his savings and had later submitted further proof of his income from work. The applicant was working on a task-based employment contract with a Finnish company. The main issue was whether the applicant's right of residence should have been registered on the basis of his status as an employed person or on the basis of the assessment of sufficient funds. In its decision the administrative court relied on the Aliens Act, Directive 2004/38/EC and the case law of the CJEU (C-408/03 <i>Commission v. Belgium</i>).</p>
Main reasoning / argumentation (max. 500 chars)	<p>The administrative court held that because of the applicant's small and irregular income, his right to residence could not be registered on the basis of his being an employed person.</p> <p>The administrative court noted that according to the Free Movement Directive, the Member States may not lay down a fixed amount which they regard as "sufficient resources" but they must take into account the personal situation of the applicant. The Member States may monitor whether EU citizens who enjoy a right of residence continue to meet the conditions for that right throughout the period of their residence. There are no specific rules as to the amount of funds which could be regarded as sufficient or how long, as a minimum, these funds should last. The applicant planned to stay in Finland for an indefinite period of time and had so far covered his living expenses with his savings and his income from part-time work. The court concluded that the applicant's right of residence should have been registered on the basis of sufficient funds.</p>
Key issues (concepts, interpretations)	<p>The decision clarified the interpretation of the concept of "sufficient funds" to the effect that no fixed amount can be set on sufficient funds. The required funds shall be sufficient to cover living expenses for the time being. The applicant enjoys the right of residence as long as</p>

clarified by the case (max. 500 chars)	he/she has sufficient funds. The host state can monitor whether the requirements for a right of residence are met throughout the period of the applicant's residence.
Results (e.g. sanctions) and key consequences or implications of the case (max. 500 chars)	The matter was referred back to the police for a new consideration.
Key quotations in original language and translated into English with reference details (max. 500 chars)	<p>(pp. 3-4 of the decision): Hallinto-oikeus toteaa, että riittävien varojen määrästä, lähteestä tai niistä esitettävästä selvityksestä ei ole erillisiä säännöksiä. Hallinto-oikeus viittaa myös Euroopan yhteisöjen tuomioistuimen tuomioon C-408/03 (Euroopan yhteisöjen komission vastaan Belgian kuningaskunta), jossa on todettu, että direktiivin 90/364 3 artiklassa säädetään siten, että oleskeluoikeus on voimassa niin kauan kuin edunsaajat täyttävät kyseisen direktiivin 1 artiklassa olevat edellytykset. Kyseisen säännöksen perusteella vastaanottava jäsenvaltio voi valvoa, että unionin kansalaiset, joille on myönnetty oleskeluoikeus, täyttävät direktiivissä 90/364 tältä osin säädetyt edellytykset koko oleskelunsa ajan. Hallinto-oikeus toteaa, että oleskeluoikeuden rekisteröintiä hakevalla ei voida olettaa olevan varoja koko oletetun loppuelämänsä ajaksi, jos hän on saapunut maahan toistaiseksi. Edelleen hallinto-oikeus toteaa, että laissa ei ole asetettu määrää riittäviksi varoiksi eikä säädetty siitä, kuinka kauan varojen tulisi vähintään riittää.</p> <p>Kun otetaan huomioon mitä vapaan liikkuvuuden direktiivissä on sanottu riittävistä varoista, mitä edellä mainitussa Euroopan yhteisöjen tuomioistuimen tuomiossa on lausuttu ja se, että A on tullut Suomeen ilmoituksensa mukaan asumaan toistaiseksi, sekä se, että A on kattanut elantomenojaan säästöjensä lisäksi tuloillaan, hallinto-oikeus katsoo, että hänen oleskeluoikeutensa olisi tullut rekisteröidä ulkomaalaislain 158a §:n 1 momentin 2 kohdan mukaan.</p> <p>The administrative court notes that there are no specific provisions as to the amount or source of sufficient funds or the required proof of such funds. The administrative court also refers to the judgment of the CJEU in the case of C-408/03 (Commission v Belgium) in which the CJEU has held that Article 3 of Directive 90/364 provides that the right of residence is to remain for as long as beneficiaries of that right fulfil the conditions laid down in Article 1 of that directive. That provision enables the host Member State to monitor whether EU citizens who enjoy a right of residence continue to meet the conditions laid down for that purpose by Directive 90/364 throughout the period of their</p>

	<p>residence. The administrative court finds that a person who applies for a registration of the right of residence cannot be expected to have sufficient funds for the rest of his or her life if that person plans to stay in the country for now. Furthermore, the administrative court notes that there is no statutory fixed amount of sufficient funds and there are no provisions as to how long, as a minimum, those funds should last.</p> <p>Considering what is said in the Free Movement Directive on sufficient funds, the views of the CJEU in the judgment referred to above, the fact that A has said he has come to Finland to live here for now and the fact that A has covered his living expenses not only with his savings but also with his income from work, the administrative court finds that the applicant's right of residence should have been registered on the basis of section 158a(1)(2) of the Aliens Act [i.e., sufficient funds].</p>
<p>Has the deciding body refer to the Charter of Fundamental Rights. If yes, to which specific Article.</p>	<p>No.</p>