

Subject-matter concerned	<input 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 checked="" type="checkbox"/> 3) voting rights <input type="checkbox"/> 4) diplomatic protection <input type="checkbox"/> 5) the right to petition
Decision date	20 February 2006
Deciding body (in original language)	Trybunał Konstytucyjny
Deciding body (in English)	Constitutional Tribunal
Case number (also European Case Law Identifier (ECLI) where applicable)	Judgment in case no. K 9/05
Parties	Proceedings before the Constitutional Tribunal initiated by a motion of the Polish Ombudsman
Web link to the decision (if available)	http://dziennikustaw.gov.pl/du/2006/s/34/242
Legal basis in national law of the rights under dispute	<p>Review of constitutionality conducted by the Polish Constitutional Tribunal based on the Act of 1 August 1997 on the Constitutional Tribunal – repealed (<i>ustawa z dnia 1 sierpnia 1997 r. o Trybunale Konstytucyjnym – akt utracił moc</i>).</p> <p>Article 6 (1) in conjunction with article 5 (1), article 6a (1) and article 7 (1) of the Electoral ordinance to the municipal councils, district councils and the Voivodeship assemblies (<i>Ustawa z dnia 16 lipca 1998 r. - Ordynacja wyborcza do rad gmin, rad powiatów i sejmików województw</i>) (act is now repealed)</p>
Key facts of the case	The Polish Ombudsman questioned the constitutionality of the Electoral ordinance provisions stipulating that the right to vote or stand as candidates in local election was conditional on the fact that one was entered, no later than 12 months to the date of vote, to a permanent

(max. 500 chars)	register of voters kept in municipalities.
Main reasoning / argumentation (max. 500 chars)	The Constitutional Tribunal found that the situation in which a Polish citizen who failed to obtain the registration by the 12 months deadline would be not permitted to vote, was contrary to e.g. the principle of proportionality enshrined in the Constitution. The Constitutional Tribunal also found that such an analogical requirement towards EU citizens who are not Polish nationals would be contrary of Poland's obligations stemming, among others from article 22 (1) TFEU.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	The Constitutional Tribunal underlined the need to treat the EU citizens in a "national" (meaning: equal in comparison to Polish citizens) manner, even if the Polish Constitution does not expressly provide them with political right.
Results (e.g. sanctions) and key consequences or implications of the case (max. 500 chars)	The Constitutional Tribunal found that art. 6a (1) in conjunction with article 7 (1) of the Electoral ordinance, in extent in which it deprived EU citizens of the voting rights in elections to municipal council if they have been included in the municipal voters register for less than 12 months, was contrary to article 169 (2) and article 16 (1) of the Constitution.
Key quotations in original language and translated into English with reference details (max. 500 chars)	<p><i>"Sytuacja normowana w art. 6a ust. 1 ordynacji wyborczej odpowiada treści art. 19 ust. 1 TWE (i art. 2 ust. 1 lit. b dyrektywy 94/80). W szczególności istotny jest tu wymóg równego (<<narodowego>>) traktowania obywateli Unii Europejskiej niebędących obywatelami polskimi w zestawieniu z obywatelami polskimi."</i></p> <p>„The situation defined in article 6a (1) of the Electoral ordinance corresponds with article 22 (1) TFEU (and article 2 [1] b of Directive 94/80). Especially important is the requirement of equal [<<national>>] treatment of citizens of the European Union who are not Polish nationals in comparison to Polish citizens.”</p>
Has the deciding body refer to the Charter of Fundamental Rights. If yes, to which specific Article.	No