

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	31 January 2014
Deciding body (in original language)	Staatsgerichtshof der Freien Hansestadt Bremen (<i>StGH</i>)
Deciding body (in English)	Constitutional Court of Bremen
Case number (also European Case Law Identifier (ECLI) where applicable)	St 1/13
Parties	City Parliament of Bremen, represented by the President of the City Parliament (<i>Bürgerschaft der Freien Hansestadt Bremen (Landtag), vertreten durch den Präsidenten der Bürgerschaft</i>)
Web link to the decision (if available)	www.staatsgerichtshof.bremen.de/entscheidungen-1469
Legal basis in national law of the rights under dispute	Paragraph 1 of the Bremen Electoral Law (<i>BremischesWahlgesetz, BWg</i>): paragraph 1 BWg, which is reproduced in its entirety in the court decision, Article 66 of the Bremen state constitution (<i>BremischeLandesverfassung, BLV</i>), www.bremische-buergerschaft.de/fileadmin/user_upload/Informationsmaterial/LandesverfassungBremen_2016_web.pdf , Articles 20 and 28 of the Basic Law for the Federal Republic of Germany (<i>Grundgesetz, GG</i>), www.gesetze-im-internet.de/gg/BJNR000010949.html , www.gesetze-im-internet.de/englisch_gg/index.html .

Key facts of the case (max. 500 chars)	The Bremen City parliament on 24 January 2013, on its first reading, adopted a draft law for the extension of the right to vote, which included a new paragraph 1a allowing EU nationals to vote in the Bremen state elections. The Bremen City Parliament applied for judicial review proceedings to examine the statutory provisions regarding their compliance with the constitution (<i>Normenkontrollverfahren</i>) before the StGH. The StGH found that Paragraph 1a of the BWg was not in accordance with Articles 20 (2), Sentence 2 and Article 28 (1), Sentence 3 of the GG.
Main reasoning / argumentation (max. 500 chars)	<p>The new Paragraph 1a BWg was based on Article 66 of the BLV, which claims that state power is derived from the people. The wording of Article 66 does not mention German nationality. Therefore, it was argued that elections were not restricted to German nationals.</p> <p>The StGH however decided that, according to Article 20(2), Sentence 2 and Article 28 (1), Sentence 2 of the GG, the right to participate in elections is reserved for German nationals. The right to vote in county and municipal elections, as provided for by Article 28 (1), Sentence 3 of the GG, for persons who possess citizenship of any member state of the European Union did not change this principle. Given the principle of homogeneity, the states may not enact provisions dissenting from the GG. The principle of homogeneity is to be found in Article 28 (1), Sentence 1 of the GG which states that the constitutional order in the Federal States (Länder) must conform to the principles of a republican, democratic and social state governed by the rule of law, within the meaning of the Basic Law. According to Article 28 (1), Sentence 2 of the GG, in each federal state, county and municipality the people shall be represented by a body chosen in general, direct, free, equal and secret elections. Article 28 (1), Sentence 3 makes an exception in that it does not refer to the (German) people but provides for the possibility for persons who possess citizenship in any member state of the European Community to vote and to be elected in accord with European Community law but only in county and municipal elections.</p>
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	The federal states may not enact provisions that allow EU nationals to vote in state elections. This would only be possible if the German Constitution were to be changed.
Results (e.g. sanctions) and key consequences or implications of the case (max. 500 chars)	An extension of the right to vote to include all EU nationals is not to be expected according to this decision. Dissenting decisions from other states have not been subsequently issued.
Key quotations in original language	<i>“Die Beteiligung an Wahlen, durch die die Ausübung der Staatsgewalt legitimiert wird, ist nach Art. 20 Abs. 2 S. 2 GG und Art. 28 Abs. 1 S. 2 GG in Bund, Ländern und Gemeinden allein deutschen Staatsangehörigen vorbehalten. Das in Art. 28 Abs. 1 S. 3 GG</i>

<p>and translated into English with reference details (max. 500 chars)</p>	<p><i>vorgesehene Kommunalwahlrecht für Unionsbürgerinnen und Unionsbürger hat an diesem Grundsatz nichts geändert. Den Ländern ist es aufgrund des bundesverfassungsrechtlichen Homogenitätsgebots verwehrt, bezüglich der Zusammensetzung des Wahlvolkes abweichende Regelungen zu treffen.“</i> (StGH Bremen, decision of 31 January 2014, Page 1)</p> <p>According to Article 20(2), Sentence 2 and Article 28 (1), Sentence 2 of the GG, the right to participate in elections of the federation, the states and the municipalities, by which the exercise of power by the state is legitimized, is reserved for German nationals. The right to vote in county and municipal elections, as provided by Article 28 (1), Sentence 3 of the GG for persons who possess citizenship of another member state of the EU does not change this principle. Given the principle of homogeneity, the states may not enact provisions dissenting from the GG.</p>
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