

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	5 March 2008
Deciding body (in original language)	Cour de cassation, Chambre civil 2
Deciding body (in English)	Court of cassation, 2nd Civil Chamber
Case number (also European Case Law Identifier (ECLI) where applicable)	No. of appeal: 08-60234
Parties	Mrs. X./ Mr. Z.
Web link to the decision (if available)	www.legifrance.gouv.fr/affichJuriJudi.do?oldAction=rechJuriJudi&idTexte=JURITEXT000018234929&fastReqId=164998227&fastPos=8
Legal basis in national law of the rights under dispute	<p>Article L. O. 227-4 of the Electoral code:</p> <p>In addition to the documents required from French nationals, nationals of a State of the European Union other than France produce, in support of their request for registration on a complementary electoral roll, a valid identity document and a written declaration specifying:</p> <p>a) Their nationality;</p> <p>b) Their address within the territory of the French Republic;</p> <p>c) That they have not been stripped of their voting rights in the State from which they originate.</p>

Key facts of the case (max. 500 chars)	<p>Mr. Z., a third party voter registered on the electoral roll of the municipality of Barbaggio, contested the registration on the electoral roll of citizens of the European Union other than the French citizens, and Mrs. X., of German nationality.</p> <p>The ruling of 14 February 2008 of the Bastia magistrates' court stated that Mrs. X. had not provided an attestation indicating that she had not been stripped of her voting rights in her country of origin and that she cannot sufficiently prove effective residence in Barbaggio.</p> <p>Mrs. X appealed in cassation.</p>
Main reasoning / argumentation (max. 500 chars)	<p>It falls upon the third party voter to provide proof that Mrs. X. did not fulfil any of the legal conditions to appear on the complementary electoral roll (citizens of the European Union residing in France must be registered in order to exercise their right to vote on a complementary list of electors upon their request). ¹The Bastia magistrates' court, by reversing the burden of proof obligation, violated the law.</p>
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	<p>The burden of proof when the legal conditions to appear on the electoral roll are not met.</p>
Results (e.g. sanctions) and key consequences or implications of the case (max. 500	<p>The Court of cassation overruled and cancelled the Bastia magistrates' court decision of 14 February 2008, returned the parties to the state they were in before the aforementioned decision and referred them to the L'Ile-Rousse magistrates' court.</p>

¹ Pursuant to articles LO 227-1 and LO 227-2 of the Electoral Code, citizens of the European Union residing in France must be registered in order to exercise their right to vote on a complementary list of electors upon their request. Electoral Code, Articles LO 227-1 and LO 227-2, available at: www.legifrance.gouv.fr/affichCode.do;jsessionid=336FCCEC2BB4D44DFE77AD03B367CECF.tpdila18v_1?idSectionTA=LEGISCTA000006164063&cidTexte=LEGITEXT000006070239&dateTexte=20170621

chars)	
Key quotations in original language and translated into English with reference details (max. 500 chars)	<p>Given that it falls upon the third party voter who contests registration on the electoral roll to provide proof of his claims;</p> <p>Given that, according to the contested ruling, given in final judgement, Mr. Z., a third party voter registered on the electoral roll of the municipality of Barbaggio, contested the registration on the complementary electoral roll of the citizens of the European Union other than French citizens, and Mrs. X., of German nationality;</p> <p>Given that to accommodate this challenge, the ruling states that the applicant did not produce an attestation that she has not been stripped of her voting rights in her country of origin and cannot provide sufficient proof of effective residence in Barbaggio;</p> <p>That in thus ruling, whereas it fell to the third party voter to provide proof that Mrs. X. did not fulfil any of the legal conditions to appear on the complementary electoral roll, the court, in reversing the burden of proof obligation, violated the laws referred to above.</p> <p><i>Attendu qu'il appartient au tiers électeur qui conteste une inscription sur les listes électorales de rapporter la preuve de ses prétentions ;</i></p> <p><i>Attendu, selon le jugement attaqué, rendu en dernier ressort, que M. Z., tiers électeur inscrit sur la liste électorale de la commune de Barbaggio, a contesté l'inscription sur la liste électorale complémentaire des citoyens de l'Union européenne autres que les citoyens français de Mme X., de nationalité allemande;</i></p> <p><i>Attendu que pour accueillir cette contestation, le jugement énonce que la requérante n'a pas produit une attestation sur l'honneur indiquant qu'elle n'est pas déchue du droit de vote dans son pays d'origine et qu'elle ne justifie pas suffisamment d'une résidence effective à Barbaggio;</i></p> <p><i>Qu'en statuant ainsi, alors qu'il appartenait au tiers électeur d'apporter la preuve que Mme X. ne remplissait aucune des conditions légales pour figurer sur la liste électorale complémentaire, le tribunal, en inversant la charge de la preuve, a violé les textes susvisés.</i></p>
Has the deciding body refer to the Charter of Fundamental Rights. If yes, to which specific Article.	No

