

<b>Subject-matter concerned</b>	<input type="checkbox"/> 1) <b>non-discrimination on grounds of nationality</b> <input type="checkbox"/> 2) freedom of movement and residence - linked to the Directive 2004/38 <input type="checkbox"/> 3) voting rights <input type="checkbox"/> 4) diplomatic protection <input type="checkbox"/> 5) the right to petition
<b>Decision date</b>	12 April 2006
<b>Deciding body (in original language)</b>	Višje sodišče v Ljubljani
<b>Deciding body (in English)</b>	Ljubljana Higher Court
<b>Case number (also European Case Law Identifier (ECLI) where applicable)</b>	II Cp 5686/2005 ECLI:SI:VSLJ:2006:II.CP.5686.2005
<b>Parties</b>	Anonymous
<b>Web link to the decision (if available)</b>	<a href="http://www.sodnapraksa.si/?q=id:38601&amp;database[SOVS]=SOVS&amp;database[IESP]=IESP&amp;database[VDSS]=VDSS&amp;database[UPRS]=UPRS&amp;_submit=i%C5%A1%C4%8Di&amp;page=0&amp;id=38601">http://www.sodnapraksa.si/?q=id:38601&amp;database[SOVS]=SOVS&amp;database[IESP]=IESP&amp;database[VDSS]=VDSS&amp;database[UPRS]=UPRS&amp;_submit=i%C5%A1%C4%8Di&amp;page=0&amp;id=38601</a>
<b>Legal basis in national law of the rights under dispute</b>	Arts. 90, 91 of the Private International Law and Procedure Act ( <i>Zakon o mednarodnem zasebnem pravu in postopku</i> <sup>1</sup> )
<b>Key facts of the case</b> (max. 500 chars)	<p>The case involves a dispute between claimants, a citizen of Austria, and several defendants, Slovenian citizens. The nature of the dispute is not clear. However, the facts of the case show, that the defendants required the claimant to provide a security deposit for their (future) litigation costs. They relied on Art. 90 and 91 of the Private International Law and Procedure Act (cited above). Art. 90 of the Act requires that foreign citizens with no permanent residence in the Republic of Slovenia, pay the above mentioned security deposit.</p> <p>The court of first instance rejected the request of the defendants , relying on Art. 17 of the Hague Convention of 1 March 1954 on civil procedure. The Convention states no "security, bond or deposit of any kind, may be imposed by reason of their foreign nationality, or of lack of domicile or residence in the country, upon nationals of one of the Contracting States, having their domicile in one of these States, who are plaintiffs or parties intervening before the courts of another of those States." Two of the defendants appealed, claiming the conditions for the security deposit were met..</p>

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<sup>1</sup> Slovenia, Private International Law and Procedure Act (*Zakon o mednarodnem zasebnem pravu in postopku*), 13 July 1999, available at [www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1258](http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO1258).

<b>Main reasoning / argumentation</b> (max. 500 chars)	<p>On appeal, the court agreed with the decision, but not with the reasoning of the court of first instance. The appellate court held that the national legal rules (including ratified international treaties) need to be put aside due to the primacy of the EU law. It applied Art. 12 of the TEC, finding that the application of Art. 90-91 of the Act as well as the application of the Hague convention would violate the prohibition of discrimination on the grounds of nationality. The application of Art. 12 of the TEC leads to the same result, ie no security deposit may be required from the claimants, citizens of another Member State.</p>
<b>Key issues (concepts, interpretations) clarified by the case</b> (max. 500 chars)	<p>Prohibition of discrimination on the grounds of nationality applies to the right to access to court in civil matters, where citizens of other Member States file suit against Slovenian citizens with the Slovenian courts.</p>
<b>Results (e.g. sanctions) and key consequences or implications of the case</b> (max. 500 chars)	<p>The challenged decision was affirmed, but on different legal grounds.</p>
<b>Key quotations in original language and translated into English with reference details</b> (max. 500 chars)	<p>Upoštevač 12. člen Pogodbe, slovenska sodišča za državljane držav članic EU oziroma pravne osebe s sedežem v državi članice EU ne smejo več zahtevati plačila tožniške varščine, kadar ti tožijo državljane Slovenije oziroma državljane drugih držav članic EU oziroma pravne osebe s sedežem v Sloveniji ali v drugi državi članici EU.</p> <p>Considering Article 12 of the Treaty, the Slovenian courts for citizens of EU Member States or legal entities established in the Member States of the EU should no longer be required to pay cost security deposit for defendant's costs when they sue Slovenian citizens or citizens of other EU Member States or legal entities established in Slovenia or another EU Member State.</p> <p>Reference: see URL above.</p>
<b>Has the deciding body refer to the Charter of Fundamental Rights. If yes, to which specific Article.</b>	<p>No.</p>