

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	7 January 2013.
Deciding body (in original language)	Alkotmánybíróság.
Deciding body (in English)	Constitutional Court.
Case number (also European Case Law Identifier (ECLI) where applicable)	1/2013. (I.7.) AB.
Parties	The petitioner was the President of Hungary. As a Constitutional review process, there was no defendant.
Web link to the decision (if available)	http://public.mkab.hu/dev/dontesek.nsf/0/9C05BC19C310A316C1257ADA0052476B?OpenDocument
Legal basis in national law of the	Article XXIII of the Fundamental Law of Hungary. ¹ <i>(1) All adult Hungarian citizens shall have the right to vote and to stand as candidates in parliamentary elections, on local ballots for the</i>

¹ Hungary, Fundamental Law of Hungary (*Magyarország Alaptörvénye*), 25 April 2011, Article XXIII, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1100425.ATV.

rights under dispute	<p><i>election of council members and mayors, and in elections to the European Parliament.</i></p> <p><i>(2) All adult citizens of other Member States of the European Union who reside in Hungary shall have the right to vote and to stand as candidates on local ballots for the election of council members and mayors and in elections to the European Parliament.</i></p> <p><i>(3) All adult persons holding refugee, immigrant or permanent resident status in Hungary shall have the right to vote on local ballots for the election of council members and mayors.</i></p> <p><i>(4) By an implementing act, voters may be required to reside in Hungary in order to exercise or fully exercise their right to vote, or they may also be required to meet additional criteria to stand for election.</i></p> <p><i>(5) For the election of council members and mayors, voters shall cast their votes on ballots at the place where their residence or registered place of abode is located. Voters shall be able to exercise their right to vote at the place where their residence or registered place of abode is located.</i></p> <p><i>(6) Those for whom the court has deprived them of their right to vote, due to the commission of a criminal offence or owing to their mental state, shall not have the right to vote. Citizens of other Member States of the European Union who reside in Hungary shall not have the right to be elected if they have been deprived of such right in the Member State of their citizenship by the laws of that Member State, or by a judicial or other official decision.</i></p> <p><i>(7) All those entitled to vote in parliamentary elections shall have the right to vote in national referenda. All those entitled to vote in local elections for the election of council members and mayors shall have the right to vote in local referenda.</i></p> <p><i>(8) All Hungarian citizens shall have the right to hold public office according to their aptitude, education and professional competence. Public offices that may not be held by members or officials of political parties shall be specified in an act of Parliament.</i></p>
Key facts of the case (max. 500 chars)	<p>On 26 November 2012, the Hungarian Parliament adopted a new law on election procedures, based on Draft Legislation no. T/8405.² Article 92 of the new Bill did not offer the possibility of registration in person to those living in Hungary without a permanent address. These people – including many EU citizens – were required to register to exercise their voting rights in municipal elections in Hungary by sending a request by regular mail. The President did not sign the new Bill but, rather, forwarded it to the Constitutional Court for preliminary review.</p>

² Hungary, Draft Legislation no. T/8405 on election procedures (*T/8405. sz. törvényjavaslat a választási eljárásról*), 26 November 2012, Article 92, available at: <http://www.parlament.hu/irom39/08405/08405-0065.pdf>.

Main reasoning / argumentation (max. 500 chars)	<p>The President argued that Article 92 of the new Bill would result in unnecessary and unconstitutional discrimination against non-Hungarian – mainly EU – citizens who live in Hungary without a permanent address there. The Bill would impose an extra burden on these people in exercising their voting rights in municipal elections by not permitting registration in person and, instead, imposing a more complicated means of registration.</p>
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	<p>Citizens are granted voting rights based on having either a permanent address in Hungary or a place of residence in Hungary. Article XV(2) of the Fundamental Law of Hungary imposes an obligation on the State to grant fundamental rights to all people in a non-discriminatory manner. Any discrimination in the methods through which a person requests entry in the voter registry therefore violates the non-discrimination principle of the Fundamental Law of Hungary.</p>
Results (e.g. sanctions) and key consequences or implications of the case (max. 500 chars)	<p>The Constitutional Court found Article 92 of the new Bill unconstitutional and annulled it before its entry into force. The Court emphasised that any further restriction on voting rights could only occur through an amendment to the Fundamental Law of Hungary; a Parliamentary Act alone cannot restrict the exercise of voting rights by establishing additional formal registration requirements for those living in Hungary but without a permanent address there. As such people can clarify their places of residence in Hungary through a personal meeting, the requirement to request registration in written and mailed form is an unnecessary and unconstitutional discrimination against non-Hungarian nationals.</p>
Key quotations in original language and translated into English with reference details (max. 500 chars)	<p>Paragraph III.90 of the Decision</p> <p><i>“Az Alkotmánybíróság a jelen esetben megállapította, hogy a Magyarországon élő, lakcímmel nem rendelkező választópolgárok esetében a személyes regisztráció lehetőségének törvényi kizárása a magyarországi lakcímmel rendelkező választópolgárokhoz képest indokolatlan.”</i></p> <p><i>“The Constitutional Court, in the given case, stated that preventing those living in Hungary without a permanent address in Hungary from the possibility of requesting registration in person is discrimination when compared to those with a permanent address in the country, and it cannot be justified.”</i></p>
Has the deciding body refer to the Charter of Fundamental Rights. If yes, to which	<p>No.</p>

specific Article.