

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	19 September 2014
Deciding body (in original language)	<i>Krajský soud v Brně</i>
Deciding body (in English)	The Regional Court in Brno
Case number (also European Case Law Identifier (ECLI) where applicable)	64 A 6/2014 - 20 (does not have ECLI)
Parties	Plaintiff: P. N. Defendant: Municipal Office of the City of Brno - Královo Pole
Web link to the decision (if available)	http://www.nssoud.cz/files/EVIDENCNI_LIST/2014/64A_6_2014_20140919133208_prevedeno.pdf
Legal basis in national law of the rights under dispute	The Act on Elections to Municipal Councils No. 491/2001 Coll. in its paragraph 4 grants the right to vote to ‘another country’s citizen that by the election day has reached 18 years of age, has a permanent residence in this municipality on the election day and is entitled to vote according to an international treaty that is binding for the Czech Republic and that has been published’.
Key facts of the case (max. 500 chars)	The plaintiff, a citizen of Slovakia who had a temporary residence in the municipality, demanded to be registered in an electoral register. The Municipal Office refused to register him, since he did not have permanent residence, just temporary residence. Therefore he approached the court.
Main reasoning / argumentation (max. 500 chars)	The plaintiff claimed that according to Article 22 of the TFEU he has a ‘right to vote in the municipal election in the member state in which he resides’. The TFEU does not distinguish permanent and temporary residence, but the Act on Elections to Municipal Councils does. The fact that the Act on Elections to Municipal Councils requires a certain type of residence is discriminatory, especially if a foreign national may receive permanent residence after 5 years of residence in the Czech Republic.

Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	<p>The court stated that according to the Article 20 paragraph 1 and Article 22 paragraph 1 of the TFEU and Council Directive 94/80/EC, EU citizens have the right to vote in the member state in which they reside under the same conditions as the state's citizens. The Act on Elections to Municipal Councils sets the same conditions for CR citizens and other EU citizens (with permanent residence), but this term has a different meaning for each: the permanent residence of CR citizens is regulated by the Act on the Register of the Population and Birth Numbers No. 133/2000 Coll. and is purely about registration; the permanent residence of other EU citizens is regulated by the Act on the Residence of Foreign Nationals No. 326/1999 Coll. and it is more difficult to obtain (e.g. long-term residence in the CR is required). In conclusion, the term is the same, but for each category has substantially a different meaning, which is obviously discriminatory.</p>
Results (e.g. sanctions) and key consequences or implications of the case (max. 500 chars)	<p>The court stated that the citizens of an EU member state have the right to vote in municipal elections even if they only have a temporary residence in the Czech Republic. According to the court, Council Directive 94/80/EC has been incorrectly transposed. It is not possible to interpret the Act on Elections to Municipal Councils in a manner inconsistent with EU law, and the Directive has a direct effect in this case.</p>
Key quotations in original language and translated into English with reference details (max. 500 chars)	<p>Z porovnání úprav týkajících se evidence trvalého pobytu občana České republiky a občana Evropské unie vyplývá, že se jedná o dvě zcela nesouměřitelné kategorie, neboť pro získání povolení k trvalému pobytu na území České republiky musí občan Evropské unie z jiného členského státu splnit přísnější podmínky než občan České republiky (zejména mj. ve většině případů je podmínkou dlouhodobý pobyt na území České republiky). Zákon o pobytu cizinců nekonstruuje trvalý pobyt, resp. povolení k trvalému pobytu jako evidenční záležitost. Vnitrostátní úprava je proto v rozporu se Smlouvou o fungování EU, podle níž zejména platí, že občané Unie mají mj. právo volit a být voleni v obecních volbách v členském státě, v němž mají bydliště, za stejných podmínek jako státní příslušníci tohoto státu.</p> <p><i>From a comparison of the legal regulations concerning the registration of permanent residence of a CR citizen and an EU citizen, it is apparent that the two are completely incommensurable categories, since an EU citizen must meet stricter conditions than a CR citizen (e.g. long-term residence in the Czech Republic). The Act on the Residence of Foreign Nationals does not construct permanent residence or permission thereof as a registration issue. Czech legislation is therefore in conflict with the TFEU according to which EU citizens have the right to vote and to stand as a candidate in municipal elections in the member state in which they reside under the same conditions as nationals of that state.</i></p>
Has the deciding body refer to the Charter of Fundamental Rights. If yes, to which specific Article.	<p>No.</p>