

<b>Subject-matter concerned</b>	<input type="checkbox"/> 1) non-discrimination on grounds of nationality <input checked="" type="checkbox"/> 2) freedom of movement and residence - linked to which article of 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>	5 April 2016
<b>Deciding body (in original language)</b>	Tallinna Ringkonnakohus
<b>Deciding body (in English)</b>	Tallinn Circuit Court
<b>Case number (also European Case Law Identifier (ECLI) where applicable)</b>	2-15-1641/28
<b>Parties</b>	Deutsche Lufthansa Aktiengesellschaft vs KRTS
<b>Web link to the decision (if available)</b>	<a href="https://www.riigiteataja.ee/kohtulahendid/detailid.html?id=179415541">https://www.riigiteataja.ee/kohtulahendid/detailid.html?id=179415541</a>
<b>Legal basis in national law of the rights under dispute</b>	<ul style="list-style-type: none"> <li>• Law of Obligations Act<sup>1</sup> (<i>Võlaõigusseadus</i>) Arts 841, 842, 127 secs 1 and 3, 128</li> <li>• Directive 2004/38 article 5 sec 1</li> </ul>

<sup>1</sup> Estonia, Law of Obligations Act<sup>1</sup> (*Võlaõigusseadus*), State Gazette 24.01.2017, [www.riigiteataja.ee/en/eli/524012017002/consolide](http://www.riigiteataja.ee/en/eli/524012017002/consolide)

	<ul style="list-style-type: none"> <li>Identity Documents Act<sup>2</sup> (<i>Isikut tõendavate dokumentide seadus</i>) Articles 19 point 2; 3 sec 2; 16.</li> </ul>
<b>Key facts of the case</b> (max. 500 chars)	<p>Deutsche Lufthansa Aktiengesellschaft (plaintiff) filed a claim against KRTS (German citizen, the defendant) to Harju County Court and claimed damages. The defendant purchased through its franchise a plane ticket to Bulgaria. Bulgaria Border guard refused admission of the defendant to the country because the defendant lacked the necessary documents to enter the country as he only held an Estonian ID card that granted him a residence permit.</p> <p>Bulgaria's Ministry of Interior issued a penalty decision No. 204 to Lufthansa AG, which required the applicant to pay 6000 leva (EUR 3,067.75) for the fact that the applicant had not checked the travel documents of the defendant before providing him travel services, allowing the defendant to travel to Bulgaria only with a residence permit. The fine was based on the Article 51 of the Bulgarian Aliens Act; the applicant paid the fine.</p> <p>The defendant did not agree with the claim and found that the fine paid was not directed towards him. Moreover, Bulgarian authorities had misinterpreted the legal meaning of the Estonian ID card – it is a valid identification document. The fact, that it included a remark on the permission to live in Estonia did not mean that it ceased to be an identification document.</p> <p>The applicant noted that as Bulgaria is not part of the Schengen treaty, therefore, it has a right to impose additional limitations on the permissible travel documents in accordance with the Directive 2004/38/EC. Estonian ID card is only an official identity document for Estonian citizens.</p>
<b>Main reasoning / argumentation</b> (max. 500 chars)	<p>The county court did not grant the claim. It found that residence permits are clearly separate documents and they are not granted to EU citizens. EU citizens receive Estonian ID cards that are legal identification documents. The defendant carries an Estonian ID card that was entered into PRADO system as an official ID card granted to EU citizens and it was a formal identification document that granted a right to enter to Bulgaria. Therefore, the county court did not find it proven that there is a causal link between the fine and the actions of the defendant.</p> <p>The Tallinn Circuit Court agreed with the county court and found that the defendant was carrying a legal identification document and that the Bulgarian authorities mistakenly decided that it was a living permit. Therefore, the actions of the defendant did not cause the damages to the applicant.</p>

<sup>2</sup> Estonia, Identity Documents Act (*Isikut tõendavate dokumentide seadus*), State Gazette 28.03.2017, [www.riigiteataja.ee/en/eli/528032017002/consolide](http://www.riigiteataja.ee/en/eli/528032017002/consolide)

<b>Key issues (concepts, interpretations) clarified by the case</b> (max. 500 chars)	What is the legal meaning of Estonian ID card which is granted to EU citizens – whether it corresponds with the ID card registered in the PRADO database, or it is a legal identification and travel document within the EU.
<b>Results (e.g. sanctions) and key consequences or implications of the case</b> (max. 500 chars)	The claim of Lufthansa was dismissed.
<b>Key quotations in original language and translated into English with reference details</b> (max. 500 chars)	<p><i>"56. Hageja tüüptingimuste p 13.1.1 näeb ette reisija kohustuse kanda kaasas sihtriigis sätestatud nõuetele vastavaid dokumente. Seega ei saa kostja reisidokumendi nõuetelevastavust hinnata Eesti seaduse alusel, vaid seda tuleb teha Bulgaaria seaduste alusel.</i></p> <p><i>57. Bulgaaria Vabariigi välismaalaste seaduse (BVMS) § 19 lg 1 p 1 kohaselt peab iga isik, kes ei ole Bulgaaria kodanik, esitama välisriigi standardreisidokumendi või muu seda asendava dokumendi ja vajadusel viisa. Euroopa Liidu kodanike ning nende perekonnaliikmete Bulgaariasse sisenemise ja sealt väljumise seaduse (ELBS) § 4 lg 1 kohaselt on EL kodanikel õigus siseneda Bulgaaria Vabariigi territooriumile kehtiva ID-kaardi või passiga. Ringkonnakohus nõustub kostja seisukohaga, et ELBS on BVMS suhtes eriseadus, kuivõrd reguleerib konkreetse isikute grupi (EL kodanike) õigusi ja kohustusi Bulgaariasse sisenemisel, kelleks kostja antud juhul oli.</i></p> <p><i>58. Seega on maakohus õigesti tuginenud ELBS § 4 lg-le 1, mis lubab EL kodanikel Bulgaariasse siseneda ID-kaardi alusel. ELBS-ist ei tulene, nagu oleks BVMS § 19 lg-s 1 silmas peetud kitsalt kodakondsusjärgset ID-kaarti. Eeltoodust tulenevalt on maakohus õigesti tuvastanud, et vastustajal kaasas olnud ID-kaart oli nõuetekohane ning ta ei ole rikkunud reisijaveolepingu tüüptingimuste p 13.1.1.</i></p> <p><i>59. Seega tuleneb Bulgaaria seadusest, et EL kodanikel on õigus riiki siseneda kehtiva ID-kaardiga. Seadus ei kitsenda sisenemise õigust lähtuvalt sellest, kas tegemist on kodakondsusjärgse riigi väljaantud ID-kaardiga või mitte. Tegemist peab olema vaid kehtiva ID-kaardiga. Kostja esitas Bulgaaria ametnikele kehtiva ID-kaardi. Seega jõudis maakohus õigele järeldusele, et kostja ei ole oma kohustusi hageja ees rikkunud, mistõttu ei saanud kostja tegevusest hagejale kahju tekkida. Seega puudub hagejale kahju tekkimise ning kostja tegevuse vahel põhjuslik seos."</i></p>

	<p>56. General terms and conditions of carriage point 13.1.1 of the applicant provides an obligation of the passengers to carry the identity documents required by the destination country. Consequently, the defendant's travel documents had to meet the requirements of the Bulgarian law.</p> <p>57. The Aliens Act of the Republic of Bulgaria Art 19 section 1 subsection 1 states that every person who is not a Bulgarian citizen, has to submit a standard foreign travel document or other equivalent document and visa if required. Entry and exit of the European Union citizens and their family members to Bulgaria is regulated by a separate legal act (EUCRE) and its Art 4 section 1 grants the EU citizens a right to enter the territory of the Republic of Bulgaria when presenting a valid identity card or passport. The Court of Appeal agrees with the defendant's position that the latter law is a specific law that is directed to a specific group's (EU citizens) rights and obligations when entering Bulgaria, the defendant fall under this category of persons.</p> <p>58. Therefore, the county court correctly relied on EUCRE Article 4 that allows EU citizens to enter Bulgaria with an ID card. EUCRE does not refer only to the ID card of the country of origin of the person i.e. the country of the citizenship. Therefore, the County Court correctly held that the respondent had a valid ID card and he has not violated the general terms and conditions of carriage point 13.1.1.</p> <p>59. Thus, under Bulgarian law, EU citizens have the right to enter with a valid ID card. The law does not restrict the right of entry based on whether the ID card is issued by the country of citizenship or not. It must just be a valid ID card. The defendant submitted a valid ID card to the Bulgarian authorities. Thus, the County Court reached the correct conclusion that the defendant had not violated its obligations towards the applicant. Thus, the defendant has not caused any damage to the applicant, and there is no causal link between his activities and the damages occurred to the applicant.</p>
<p><b>Has the deciding body refer to the Charter of Fundamental Rights. If yes, to which specific Article.</b></p>	<p>No.</p>