

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	14 February 2014.
Deciding body (in original language)	Győri Ítéltábla.
Deciding body (in English)	Regional Court of Appeals in Győr.
Case number (also European Case Law Identifier (ECLI) where applicable)	Bf.107/2012/51.
Parties	The defendant in the criminal procedure was a German national accused of being an accomplice in a homicide. The prosecutor represented the Government.
Web link to the decision (if available)	http://ukp.birosag.hu/portal-frontend/stream/birosagKod/2204/hatarozatAzonosito/Bf.107_2012_51//

Legal basis in national law of the rights under dispute	Article 4(b) of Act CXIII of 2003 on the election of members of the European Parliament. ¹ <i>"In Hungary, voting rights related to the election of the members of the European Parliament is granted to: (...)</i> <i>b) all electors of other Member States of the European Union, if he/she makes a statement that he/she wants to exercise voting rights in Hungary, and verifies that he/she has a place of residence in Hungary."</i>
Key facts of the case (max. 500 chars)	The German defendant was accused, together with five Hungarian nationals, of being an accomplice in a homicide in the territory of Slovakia. The Slovakian authorities handed the criminal procedure to the Hungarian authorities, given that the majority of the accused were Hungarian nationals. The first instance court found the German defendant guilty, sentencing him to imprisonment and disqualifying him from participation in public affairs. The defendant appealed against the decision, claiming that as a German national, the Hungarian court had no such global right of disqualification.
Main reasoning / argumentation (max. 500 chars)	The defendant challenged the decision of the first instance court on the grounds that the penalty of disqualifying somebody from participation in public affairs effectively removes the person's voting rights in all types of elections. As a German national, he claimed that the disqualification should have been limited to election of the members of the European Parliament, and that the Hungarian authorities were not entitled to apply the sanction of disqualification with general effect. The defendant argued that the court should have specified only those election types that applied to citizens of other EU Member States, rather than imposing the sanction with such a broad scope.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	The Criminal Code (Act IV of 1978 on the Criminal Code) ² that was in effect when the crime was committed listed the types of election covered by the penalty of disqualification from participation in public affairs. The issue centred on whether a Hungarian court could apply the sanction of disqualification from participation in public affairs against citizens of other EU Member States with a general effect, or whether it only had the power to disqualify the defendant from exercising his voting rights in those elections in which a non-Hungarian citizen might participate in Hungary.
Results (e.g. sanctions) and key consequences or implications of the	The Appellate Court upheld the decision of the first instance court, emphasising that the Hungarian election system implements the EU <i>acquis communautaire</i> . It thus allows citizens of other EU Member States to exercise their voting rights at municipal elections and, naturally, at elections for the members of the European Parliament, provided certain legal conditions were met (e.g. they are present in Hungary on the day of the election, and they have places of residence in Hungary). The sanction of disqualification from participation in

¹ Hungary, Act CXIII of 2003 on the election of members of the European Parliament (2003. évi CXIII. törvény az Európai Parlament tagjainak választásáról), 19 December 2003, Article 4(b), available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=a0300113.tv.

² Hungary, Act IV of 1978 on the Criminal Code (1978. évi IV. törvény a Büntető Törvénykönyvről), 31 December 1978 (the Act is not in effect since 1 July 2013), Article 54(1), available at: <http://www.mgyisz.hu/2009/jogszab/btk.pdf>.

case (max. 500 chars)	<p>public affairs should therefore be a general sanction enforceable against defendants, irrespective of their nationality. The court cannot foresee whether or not, in a given election, the conditions to exercise voting rights will be met by the defendant, meaning that it must apply the sanction with a general scope.</p>
Key quotations in original language and translated into English with reference details (max. 500 chars)	<p>Excerpt from the Decision:</p> <p><i>“Tekintettel arra, hogy Németország az Európai Unió tagja és a vádlott a Magyar Köztársaság területén lakóhellyel rendelkezik, magatartása folytán méltatlanná vált a közéletben való részvételre, a bíróság a törvénynek megfelelően (...) tiltotta el a közügyek gyakorlásától. A közügyektől eltiltást nem lehetett részlegesen, a Btk. 54. §-ának (1) bekezdésében szabályozott egyes következményekre korlátozva elrendelni, a mellékbüntetés alkalmazása maga után vonja valamennyi, az említett szakaszban felsorolt jogosultság megvonását.”</i></p> <p><i>“Taking into consideration that Germany is member of the European Union, and the defendant has a place of residence in the territory of Hungary, and – based on his criminal actions – he became unworthy to participate in public affairs, the court disqualified him from public affairs as it may justifiably do so under the law. The penalty of disqualification from participation in public affairs cannot be restricted to certain legal consequences as listed in Article 54(1) of the Criminal Code, thus the application of this sanction automatically means that the defendant will lose his voting rights at all listed types of elections.”</i></p>
Has the deciding body refer to the Charter of Fundamental Rights. If yes, to which specific Article.	<p>No.</p>