

Subject-matter concerned	<input checked="" 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 type="checkbox"/> 3) voting rights <input type="checkbox"/> 4) diplomatic protection <input type="checkbox"/> 5) the right to petition
Decision date	06.10.2015.
Deciding body (in original language)	Administratīvā apgabaltiesa
Deciding body (in English)	Administrative Regional Court
Case number (also European Case Law Identifier (ECLI) where applicable)	A420469613 (AA43-0714-15/16)
Parties	Applicant: a natural person (name of person is anonymised) Defendant: Jurmala City Council / Jūrmalas pilsētas Dome
Web link to the decision (if available)	https://manas.tiesas.lv/eTiesas/
Legal basis in national law of the rights under dispute	Law On Immovable Property Tax, entered into force on 01.01.1998./ Likums par nekustamā īpašuma nodokli, stājies spēkā 01.01.1998. October 11, 2012 Binding Regulations No.37 of Jurmala City Council "On the procedure of granting immovable property tax relief ", entered into force on 01.01.2013. / Jūrmalas pilsētas domes 2012.gada 11.oktobra saistošie noteikumi Nr.37 "Par nekustamā īpašuma nodokļa atvieglojumu piešķiršanas kārtību.
Key facts of the case (max. 500 chars)	With Jurmala City Council statement concerning the payment of immovable property tax in 2013, the applicant was informed about the estimated immovable property tax on residential buildings and land. The applicant applied to the Jurmala City Council, asking to grant immovable property tax relief in accordance with the Jurmala City Council October 11, 2012 binding Regulations No.37 " On the

	<p>procedure of granting immovable property tax relief" (7.1.2. sub-clause). The applicant's application was rejected. The reasoning of the Jurmala City Council was that the municipality has chosen to classify property taxpayers into two groups - citizens and non-citizens (group, which can be granted relief) and other tax-payers (the group to which relief is not granted). Since the applicant is not a citizen of the Republic of Latvia, relief cannot be granted.</p> <p>The applicant appealed the decision of the Jurmala City Council in court. She pointed that the decision is illegal and significant procedural breaches have been committed in adopting the decision. The applicant highlighted that she is a resident of the Republic of Latvia. This status of the applicant as a natural person ensures social guarantees which are determined in Latvia, also relief of immovable property tax.</p> <p>With the judgment of the Administrative District court the application was rejected. The court found that the applicant is not included in the category of persons to which the Jurmala City Council has chosen to grant immovable property tax relief.</p> <p>The applicant submitted an appellate complaint, in addition to stating that the applicant has been discriminated on the grounds of nationality.</p>
Main reasoning / argumentation (max. 500 chars)	<p>The applicant is a citizen of Republic of Lithuania.</p> <p>According to the Article 20 clause 1 of the TFEU Treaty every person which holds the nationality of any Member State, is granted the status of a citizen of the European Union. Thus, the applicant is a citizen of the Union.</p> <p>According to the Article 18 paragraph 1 within the scope of application of the Treaties, and without prejudice to any special provisions contained therein, any discrimination on grounds of nationality shall be prohibited. As the European Court of Justice has held on numerous occasions, the status of citizen of the Union is destined to be the fundamental status of nationals of the Member States, enabling those among such nationals who find themselves in the same situation to receive, as regards the material scope of the FEU Treaty, the same treatment in law irrespective of their nationality, subject to such exceptions as are provided for in that regard (see Case C-75/11 [2012] paragraph 38).</p> <p>It is settled in Article 18 of the TFEU Treaty that the principle of non-discrimination requires that comparable situations must not be treated differently and that different situations must not be treated in the same way. Such treatment may be justified only if it is based on objective considerations independent of the nationality of the persons concerned and is proportionate to the objective being legitimately pursued (see Case 164/07 [2008] paragraph 13; Case C-524/06 [2008] paragraph 75; Case C-155/09 [2011] paragraph 68).</p>
Key issues (concepts, interpretations) clarified by the case	<p>The main question which should be answered, whether the applicant – a citizen of the Republic of Lithuania, who owns an immovable property in the Republic of Latvia – had the right to receive immovable property tax relief in 2013. At the first it seems that the applicant cannot get relief accordingly to the Binding Regulation No.37 of the Jurmala City Council, but the Court decided to check</p>

(max. 500 chars)	<p>whether this restriction in this regulation is compatible with a norm of the law of higher legal force.</p> <p>One of the criteria set by the Jurmala City Council for getting immovable property tax relief is that the owner must be a citizen of Republic of Latvia or a non-citizen. Thus, Latvian citizens and other Union citizens, who own immovable property in Jurmala City municipality, have been placed in a different situation.</p> <p>Although according to the case law of European Court of Justice direct taxation falls within the competence of the Member States, they must exercise that competence consistently with Community law and therefore avoid any overt or covert discrimination by reason of nationality. That means that any tax relief set by a Member State, which discriminates other citizens of Member States, breaches the principle of non-discrimination enshrined in the Treaty on the Functioning of the European Union.</p>
Results (e.g. sanctions) and key consequences or implications of the case (max. 500 chars)	<p>The Administrative Regional Court recognized that paragraph 3 of Binding Regulation No.37, so far as it restricts the European Union nationals of Member States, do not comply with international rules - the first paragraph of Article 18 of the TFEU Treaty.</p> <p>Since there is a contradiction between the national law - paragraph 3 of Binding regulations No. 37 - and international law, the court must apply international law – the first paragraph of Article 18 of the TFEU Treaty, which prohibits any discrimination on grounds of nationality. That means that the restriction included in Binding Regulation No.37 paragraph 3, providing that tax relief is granted only to Latvian citizens or non-citizens, is not applicable in respect of the applicant.</p> <p>Considering that the applicant complies with the other criteria set out in Binding Regulations No. 37 to qualify for immovable property tax relief, but the paragraph 3 of Binding Regulation No.37 in respect of the applicant is not applicable, the court accepted the application and imposed a duty on the Jurmala City Council – to grant an immovable tax relief in 2013.f</p>
Key quotations in original language and translated into English with reference details (max. 500 chars)	<p><i>“[18] Jūrmalas pilsētas pašvaldība, nosakot, ka nodokļa atvieglojumi piešķirami tikai Latvijas pilsoņiem un nepilsoņiem, kā vienu no kritērijiem ir noteikusi pilsonības kritēriju. Tādējādi Latvijas pilsoņi un citu dalībvalstu pilsoņi, kuriem pieder nekustamais īpašums Jūrmalas pilsētas pašvaldības teritorijā, tiek nostādīti atšķirīgā situācijā. [..]”</i></p> <p>“[18] The Jurmala City Council, stating that the tax relief shall be granted only to Latvian citizens and non-citizens, has determined nationality as one of the criteria. Thus, Latvian citizens and citizens of other Member States who own real estate in the Jurmala city municipality, would be placed in a different situation. [..]”</p> <p><i>“[20] ... apgabaltiesa atzīst, ka saistošo noteikumu Nr.37 3.punkts, ciktāl tas ierobežo Eiropas Savienības dalībvalstu pilsoņus, neatbilst starptautisko tiesību normai – Līguma par Eiropas Savienības darbību 18.panta pirmajai daļai.</i></p> <p>[..]</p>

	<p><i>Tas nozīmē, ka saistošajos noteikumos Nr.37 3.punktā iekļautais ierobežojums, kas paredz nodokļa atvieglojumu piešķiršanu tikai Latvijas pilsoņiem vai nepilsoņiem, attiecībā uz pieteicēju nav piemērojams.”</i></p> <p>“[20] ... the Regional Court acknowledges, that the paragraph 3 of Binding Regulation No.37, so far as it restricts the European Union nationals of Member States does not comply with international law – the first paragraph of Article 18 of the TFEU Treaty.</p> <p>[..]</p> <p>That means that the restriction included in paragraph 3 of Binding Regulation No.37, providing that the tax relief is granted only to Latvian citizens or non-citizens, is not applicable in regard to the applicant.”</p>
<p>Has the deciding body refer to the Charter of Fundamental Rights. If yes, to which specific Article.</p>	<p>No.</p>