

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 – Article 28 (1) <input type="checkbox"/> 3) voting rights <input type="checkbox"/> 4) diplomatic protection <input type="checkbox"/> 5) the right to petition
Decision date	11 May 2010
Deciding body (in original language)	Wojewódzki Sąd Administracyjny w Warszawie
Deciding body (in English)	Voivodeship Administrative Court in Warsaw
Case number (also European Case Law Identifier (ECLI) where applicable)	Judgment in case no. V SA/Wa 1451/09
Parties	H.G. against the Head of the Office for Foreigners (<i>H.G. przeciwko Szefowi Urzędu do Spraw Cudzoziemców</i>)
Web link to the decision (if available)	http://www.orzeczenia-nsa.pl/wyrok/v-sa-wa-1451-09/wizy_zezwolenie_na_zamieszkanie_czas_oznaczony_osiedlenie_sie_wydalenie_z_terytoryum/248914f.html
Legal basis in national law of the rights under dispute	Article 66 and article 68a (1) and (2) of the the Act of 14 July 2006 Act on entry, stay, and departure from the territory of Republic of Poland of EU citizens' and their family members (<i>Ustawa z dnia 14 lipca 2006 r. o wjeździe na terytorium Rzeczypospolitej Polskiej, pobycie oraz wyjeździe z tego terytorium obywateli państw członkowskich Unii Europejskiej i członków ich rodzin</i> , Official Journal from 2014 pos. 1525 as amended)
Key facts of the case (max. 500 chars)	In February 2009 the Chief Commander of the Police has brought a motion to the Voivode to expel H.G. (an EU citizen) from the territory of Poland. This was due to the fact that H.G. has been in January 2007 sentenced for three years of imprisonment, among other things, for sexually molesting his daughter. The Voivode issued a decision on expulsion of H.G. from the territory of Poland in February 2009. The

	reasoning provided by the administrative body states that after the analysis of criminological prognosis of H.G. behaviour, his expulsion should be considered a preventive measure. The decision was upheld by the Head of the Office for Foreigners.
Main reasoning / argumentation (max. 500 chars)	H.G. argued that the administrative bodies wrongfully assumed that his stay would constitute threat for the safety and public order in Poland, despite the fact that after serving his sentence he did not commit any crimes or misdemeanours. He claimed that the threat defined in article 66 (1) of the Act of 14 July 2006 should be specific instead of general and intangible.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	The court clarified that the administrative bodies should undertake genuine measures to determine whether the threat posed by the EU citizen (as provided for in article 66 [1] of the Act of 14 July 2006) is real, specific and sufficiently serious – the administrative bodies cannot in the administrative court’s opinion automatically transfer to the administrative proceedings previous findings from criminal proceedings.
Results (e.g. sanctions) and key consequences or implications of the case (max. 500 chars)	The decision of the Head of Office for Foreigners has been repealed – the case was to be re-assessed taking into account the court’s guidelines.
Key quotations in original language and translated into English with reference details (max. 500 chars)	<p><i>“To, czy skarżący stanowi obecnie zagrożenie dla interesu społecznego i czy zagrożenie to jest dostatecznie poważne, by uzasadniać podjęcie decyzji o wydaleniu organ powinien ocenić np. na podstawie opinii biegłych. Podjęcia takich ustaleń organ jednak zaniechał wprost uznając, że decyzja o wydaleniu skarżącego z Polski ma charakter prewencyjny.”</i></p> <p>„To determine whether the claimant currently poses threat to the public interest and whether this threat is sufficiently serious to issue a decision on expulsion, the administrative body should assess, e.g. the expert’s opinions. The administrative body has explicitly refrained from such activities stating that the decision on claimant’s expulsion from Poland was of preventive nature.”</p>
Has the deciding body refer to the Charter of Fundamental Rights. If yes, to which specific Article.	No