



EUROPEAN UNION AGENCY
FOR FUNDAMENTAL RIGHTS



Living in another Member State: barriers to EU citizens' full enjoyment of their rights Latvia 2017

Contractor: Latvian Centre for Human Rights

Author(s): I. Vārpa

Reviewed by: A.Kamenska

DISCLAIMER: This document was commissioned under contract as background material for comparative analysis by the European Union Agency for Fundamental Rights (FRA) for the project 'Living in another Member State: barriers to EU citizens' full enjoyment of their rights'. The information and views contained in the document do not necessarily reflect the views or the official position of the FRA. The document is made publicly available for transparency and information purposes only and does not constitute legal advice or legal opinion.

Contents

1. Table 1 – Case law	3
2. Table 2 – Overview.....	25

1. Table 1 – Case law

Desk research was undertaken, and info requests were sent to courts for data collection:

- 1) Publicly accessible judgments of ordinary courts are available at: <https://manas.tiesas.lv/eTiesasMvc/lv/nolemumi> (Database of Anonymised Judicial Decisions, *Anonimizēti tiesu nolēmumi*) and <http://at.gov.lv/en/court-proceedings-in-the-supreme-court/archive-of-case-law-decisions/> (Archive of Case-law Decisions of Supreme Court, *Augstākās tiesas judikatūras nolēmumu arhīvs*). The decisions of the Constitutional Court (*Satversmes tiesa*) are publicly available at <http://www.satv.tiesa.gov.lv/cases/>. In searching the decisions about non-discrimination on grounds of nationality, one judgment (Case No. A420469613) was found which was relevant for the present research. In searching the decisions about the right to move and reside freely within the territory of the EU Member States (of EU citizens and their family members one judgment (Case No. A420321213) was found which was relevant for the present research. No other judgments concerning the EU citizenship rights (as set out and defined in Articles 18 to 25 of the TFEU and in Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States) were found.
- 2) A request to eight courts (the Constitutional Court, the Supreme Court, the Administrative Regional Court, the Riga Regional Court, the Kurzeme Regional Court, the Vidzeme Regional Court, the Latgale Regional Court and the Zemgale Regional Court), was sent. Five courts - the Constitutional Court, the Kurzeme Regional Court, the Vidzeme Regional Court, the Latgale Regional Court and the Zemgale Regional Court – answered that they have not examined cases related to the research; the Administrative Regional Court answered that, since the all judgments are publicly accessible on the internet, one should search for them oneself; the Supreme Court listed nine judgments in their written response, but only one was relevant to the present research, the Riga Regional Court highlighted five judgments, but only two were relevant for the research.

Overall, five judgments turned out to be relevant to the present research and were analysed according to the guidelines.

1. Subject matter concerned	<input type="checkbox"/> 1) non-discrimination on grounds of nationality <input checked="" type="checkbox"/> 2) freedom of movement and residence - Linked to the Article 5 of 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	30 March 2015
Deciding body (in original language)	Rīgas apgabaltiesas Kriminālietu tiesu kolēģija
Deciding body (in English)	Division of Criminal Cases of Riga Regional court
Case number (also European Case Law Identifier (ECLI) where applicable)	No.133030314 (archive No. 104AA-0254-15/24)
Parties	Institution which has drawn up the administrative violation report – State Border Guard (<i>Valsts robežsardze</i>) The defendant – Joint Stock Company “Air Baltic” (<i>A/S “Air Baltic”</i>)
Web link to the decision (if available)	Not available

<p>Legal basis in national law of the rights under dispute</p>	<p>Immigration Law (<i>Imigrācijas likums</i>), entered into force 1 May 2003.</p> <p>Latvian Administrative Violations Code, entered into force 01.07.1985 (<i>Latvijas Administratīvo pārkāpumu kodekss</i>).</p> <p>Cabinet Regulation No. 675, adopted 30 August 2011 "Procedures for the Entry and Residence in the Republic of Latvia of Citizens of the Union and their Family Members"/ <i>Ministru Kabineta 2011.gada 30.augusta noteikumi Nr.675 "Kārtība, kādā Savienības pilsoņi un viņu ģimenes locekļi ieceļo un uzturas Latvijas Republikā"</i>.</p>
<p>Key facts of the case (max. 500 chars)</p>	<p>On 27 December 2013, an official of the State Border Guard drew up an administrative violation report that on 26 December 2013, with flight BT-423 Moscow-Riga, JSC "Air Baltic" had brought a citizen of the Russian Federation, without a valid visa or residence permit which would have allowed entry to the territory of Latvia. The validity date of the person's visa was to start only on 29 December 2013, but the person crossed the border on 27 December 2013, which means the person had no right to cross the border yet and enter into the territory of Latvia. The person was escorted by the grandmother, a citizen of the Netherlands. Taking into account that the person had already been unlawfully brought to the country and was a minor, the State Border Guard authorised the person to enter the Republic of Latvia by issuing a Schengen visa at the border.</p> <p>According to the report, JSC "Air Baltic" had violated Article 21, first paragraph of Immigration Law which determines that a carrier shall ascertain that the foreigner it is carrying has the necessary documents for entry into the Republic of Latvia. JSC "Air Baltic" received an administrative fine in the amount of EUR 2, 500. JSC "Air Baltic" lodged a complaint to Riga District Court. The complaint was rejected.</p> <p>The court rejected the objections by JSC "Air Baltic" that they could bring the person to Latvia because the visa was valid, but its expiry date had not yet begun.</p> <p>After the examination of the case documents, the court concluded that there was no proof that the citizen of the Russian Federation, who travelled without a visa would be a family member or a relative of an EU citizen, thus according to Directive 2004/38/EC and Cabinet Regulation No. 675 of 30 August 2011 "Procedures for the Entry and Residence in the Republic of Latvia of Citizens of the Union and their Family Members" the person had no right to stay in the Republic of Latvia without a valid visa or a residence permit.</p>

	<p>The court concluded that the sanction was proportionate.</p> <p>JSC "Air Baltic" appealed the decision pointing out that Section 114.2 of the Latvian Administrative Violations Code was based on Article 4 of Directive 2001/51/EC, which meant that it applied only in cases when the passenger had received a refusal to enter any of the Schengen Member States in accordance with the Schengen Convention.</p> <p>The State Border Guard highlighted that according to the Schengen Border Code, in some cases they could depart from the general order and let a third-country national enter its territory on humanitarian grounds, on grounds of national interest or because of international obligations, while the carrier was entitled to transport such a person, if these mitigating conditions were identified before the departure.</p> <p>The State Border Guard, referring to the European Court of Justice Case No. C-575/12, agreed to cancel the decision and end the administrative violation case, because there was no "Refusal of entry at the border" drawn up in case of that person.</p>
<p>Main reasoning / argumentation (max. 500 chars)</p>	<p>Section 114.2 of the Latvian Administrative Violation Code specifies liability in the case of the carriage of citizens of such state that is not a Member State of the European Union or European Economic Area, from such states to the Republic of Latvia, if the referred to persons do not have the necessary travel documentation to cross the border of the Republic of Latvia and if the carrier has performed it by sea, air or land transport.</p> <p>The State Border Guard, taking into account that the person had already been unlawfully brought before the valid date of the start of the Schengen visa, and that the person was a minor, allowed the person to enter the Republic of Latvia by issuing a Schengen visa at the border in accordance with Schengen Border Code Article 5, clause 4, sub-clause "c".</p> <p>There was no "Refusal of entry at the border" drawn up in the case of the person. In the specific case, the carrier could have been punished if, at the border check, a "Refusal of entry" had been issued in relation to the person.</p>
<p>Key issues (concepts, interpretations)</p>	<p>The key issue was about the dispute about the proportionality of the penalty.</p>

<p>clarified by the case (max. 500 chars)</p>	<p>JSC "Air Baltic" pointed that, in accordance with the Schengen Convention, in the particular case penalty could have been applied, if the passenger had received a Refusal to enter into the Republic of Latvia, but it had not happened.</p> <p>The State Border Guard referring to European Union Court case No.C-575/12 acknowledged the appeal and agreed to terminate the administrative violation case.</p>
<p>Results (e.g. sanctions) and key consequences or implications of the case (max. 500 chars)</p>	<p>The Division of Criminal Cases of Riga Regional Court satisfied the appeal of JSC "Air Baltic" to revoke the decision of the State Border Guard and to terminate the administrative violation case.</p>
<p>Key quotations in original language and translated into English with reference details (max. 500 chars)</p>	<p><i>"Valsts robežsardze, ņemot vērā, ka "B" jau bija prettiesiski atvesta pirms Šengenas vīzas derīguma termiņa sākuma un to, ka persona bija nepilngadīga, atbilstoši Šengenas robežu kodeksa 5.panta 4.punkta "c" apakšpunkta regulējumam atļāva personai ieceļot Latvijas Republikā, izdodot Šengenas vīzu uz robežas.</i></p> <p><i>Personai (konkrētajā gadījumā – "B") netika sastādīts "Ieceļošanas atteikums pie robežas".</i></p> <p><i>No minētā, kā arī no Eiropas Savienības Tiesā izskatītajā lietā C-575/12 tiesas sēdē paustajām atziņām, (.), secināms, ka pārvadātājs sodāms par personas neatbilstību Šengenas Robežu kodeksā minētajiem nosacījumiem gadījumos, kad Valsts robežsardzes amatpersonu robežpārbaudē personai tiek sastādīts Ieceļošanas atteikums, ar kuru tiek atteikta ieceļošana Latvijas Republikā."</i></p> <p>Translation:</p>

	<p>“The State Border Guard, taking into account that the person had already been unlawfully brought before the valid date of the start of Schengen visa and that the person was a minor, allowed the person to enter the Republic of Latvia by issuing a Schengen visa at the border in accordance with Schengen Border Code Article 5, clause 4, sub-clause “c”.</p> <p>There was no "Refusal of entry at the border" drawn up in relation to the person (in the present case "B").</p> <p>Also from quotes during the hearing in the European Court of Justice Case No. C-575/12 [...] it is concluded, that a carrier shall be punished for person's unconformity with the rules mentioned at the Schengen Borders Code, in cases when at the border check an official of State Border Guard had drawn up a Refusal of entry, with which entry into the Republic of Latvia had been refused.”</p>
<p>Has the deciding body referred to the Charter of Fundamental Rights? If yes, to which specific article.</p>	<p>No.</p>

<p>2. Subject matter concerned</p>	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> 1) non-discrimination on grounds of nationality <input checked="" type="checkbox"/> 2) freedom of movement and residence <ul style="list-style-type: none"> - linked to Article 5 of 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	8 May 2013
Deciding body (in original language)	Rīgas Apgabaltiesas Civillietu tiesas kolēģija
Deciding body (in English)	Division of Civil Cases of Riga Regional court
Case number (also European Case Law Identifier (ECLI) where applicable)	Case No.C27115509; CA-1565-13/16
Parties	The plaintiff: a natural person (name of person is anonymised)/ <i>fiziska persona (vārds anonimizēts)</i> The defendant: Joint stock company "Reverta" (before – Joint stock company "Parex bank")/ <i>akciju sabiedrība "Reverta" (iepriekš – akciju sabiedrība Parex banka)</i>
Web link to the decision (if available)	Not available
Legal basis in national law of the rights under dispute	The Civil law, entered into force on 1 September 1992/ <i>LR Civillikums, stājies spēkā 01.09.1992.</i> Immigration law, entered into force on 1 May 2003/ <i>Imigrācijas likums, stājies spēkā 01.05.2003.</i> Personal Identification Documents Law, entered into force on 15.02.2012/ <i>Personu apliecinošu dokumentu likums, stājies spēkā 15.02.2012.</i>

	<p>Law On the Prevention of Money Laundering, lost power on 12 August 2008 (now - Law On the Prevention of Money Laundering and Terrorism Finnsing, entered into force on 13 August 2008)/ <i>likums "Par noziedzīgi iegūtu līdzekļu legalizācijas novēršanu, zaudējis spēku 12.08.2008 (šobrīd - Noziedzīgi iegūtu līdzekļu legalizācijas un terorisma finansēšanas novēršanas likums, stājies spēkā 13.08.2008).</i></p>
<p>Key facts of the case (max. 500 chars)</p>	<p>The defendant blocked the plaintiff's current account and, hence, access to funds. The reason why the current account was blocked was the validity expiration of the passport of the applicant, a citizen of the Republic of Bulgaria. The defendant did not accept the plaintiff's ID card considering that it was not valid for entry into the Republic of Latvia.</p> <p>The plaintiff brought a claim in court about the compensation of financial losses and moral damages. The court of first instance satisfied the claim in part, recovering damages from the defendant in favour of the plaintiff. The court concluded that due to the bank's unlawful action, blocking the plaintiff's account without legal grounds, damages have been inflicted to the plaintiff.</p> <p>The defendant submitted a notice of appeal. The court of the second instance dismissed the claim.</p> <p>The plaintiff submitted a cassation complaint. The Senate of the Supreme Court revoked the judgment of the second instance court in part regarding the recovery of financial losses and referred the case for re-examination in the appellate instance court.</p> <p>The Senate pointed that the ID card of the plaintiff conformed with the criteria of the validity of the travel document, and together with a residence permit it gave the plaintiff the right to enter and stay in the Republic of Latvia. The defendant, upon having identified the customer, who produced the residence permit, had no right to refuse the plaintiff's identity card.</p>
<p>Main reasoning / argumentation (max. 500 chars)</p>	<p>According to Article 5 of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, an ID card of a citizen of the Republic of Bulgaria is a valid document for crossing the border of the Republic of Latvia, and there is no reason to consider that this document cannot confirm the identity of person in court.</p> <p>The Civil Procedural Law does not anticipate that a person can prove his or her identity by only presenting a document with the assigned personal identification number of the Population Register. According to Article 2 of the</p>

	<p>Personal Identification Documents Law, a personal identification document is a document issued by a state administration institution authorised by legal acts, which certifies the identity and legal status of its holder.</p>
<p>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</p>	<p>The key issues clarified by the case were whether the non-acceptance of the plaintiff's ID card was considered as a legitimate action, and whether the financial losses and moral damages have been caused in causal relationship with the defendant's action.</p>
<p>Results (e.g. sanctions) and key consequences or implications of the case (max. 500 chars)</p>	<p>Riga Regional Court, after the second re-examination of the case, decided to satisfy the claim in part regarding the recovery of losses, because it was established that losses have been caused in causal relationship with the defendant's action.</p> <p>The court also established that the non-acceptance of the plaintiff's ID card was considered an unlawful action.</p>
<p>Key quotations in original language and translated into English with reference details (max. 500 chars)</p>	<p>"[6] [...]</p> <p><i>Senāts norādījis, ka Prasītāja identifikācijas karte atbilst visiem ceļošanas dokumenta derīguma kritērijiem, kas noteikti Imigrācijas likuma 4.panta pirmās daļas 1 punktā, tādejādi kopā ar Pārvaldes izsniegtu derīgu uzturēšanās atļauju (minētā likuma panta pirmās daļas 2.punkts) tā dod tiesības Prasītājam ieceļot un uzturēties Latvijas Republikā atbilstoši Imigrācijas likuma 4.panta pirmajai daļai."</i></p> <p>"[9.2.] [...]</p> <p><i>Tā kā Eiropas Parlamenta un Padomes direktīvas 2004/38/EK [...] 5.pantam Bulgārijas Republikas pilsoņa identifikācijas karte ir derīgs Latvijas Republikas valsts robežas šķērsošanas dokuments, nav pamata uzskatam, ka šis dokuments nevar apliecināt personas identitāti tiesā."</i></p>

	<p>Translation:</p> <p>"[6] [...]</p> <p>The Senate pointed that the ID card of the plaintiff conforms with all the criteria of the validity of the travel document, which are provided in Article 4, first paragraph, first sub-clause of the Immigration Law, thus, together with the office issued valid residence permit (Article 4 first paragraph's second sub-clause), it gives the right to the plaintiff to enter and stay in the Republic of Latvia in conformity with Article 4, first paragraph of the Immigration Law."</p> <p>"[9.2.] [...]</p> <p>According to the Article 5 of Directive 2004/38/EC [...] an ID card of a citizen of the Republic of Bulgaria is a valid document for crossing the border of the Republic of Latvia, there is no reason to consider that this document cannot confirm the identity of a person in court."</p>
<p>Has the deciding body referred to the Charter of Fundamental Rights? If yes, to which specific article.</p>	<p>No.</p>

3. 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 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	6 October 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 / <i>Jūrmalas pilsētas Dome</i>
Web link to the decision (if available)	https://manas.tiesas.lv/eTiesas/
Legal basis in national law of the	Law On Immovable Property Tax, entered into force on 1 January 1998/ <i>Likums par nekustamā īpašuma nodokli, stājies spēkā 01.01.1998.</i>

rights under dispute	<p>October 11, 2012 Binding Regulations No.37 of Jurmala City Council "On the procedure of granting immovable property tax relief ", entered into force on 1 January 2013 / <i>Jūrmalas pilsētas domes 2012.gada 11.oktobra saistošie noteikumi Nr.37 "Par nekustamā īpašuma nodokļa atvieglojumu piešķiršanas kārtību.</i></p>
Key facts of the case (max. 500 chars)	<p>With the 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 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 had chosen to classify property taxpayers into two groups - citizens and non-citizens (a group which can be granted relief) and other tax-payers (a group to which relief is not granted). Since the applicant was not a citizen of the Republic of Latvia, relief could not be granted.</p> <p>The applicant appealed the decision of the Jurmala City Council in court. She pointed that the decision was illegal and significant procedural breaches had been committed in adopting the decision. The applicant highlighted that she was a resident of the Republic of Latvia. This status of the applicant as a natural person ensures social guarantees which are determined in Latvia, including a 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 was not included in the category of persons to which the Jurmala City Council had chosen to grant immovable property tax relief.</p> <p>The applicant submitted an appellate complaint, in addition to stating that the applicant had 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 Article 20, clause 1 of the TFEU, every person that 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 Article 18, paragraph 1, within the scope of the 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</p>

	<p>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 C-75/11 [2012], para. 38).</p> <p>It is settled in Article 18 of the TFEU 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], para. 13; C-524/06 [2008], para. 75; C-155/09 [2011], para. 68).</p>
<p>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</p>	<p>The main question was whether the applicant – a citizen of the Republic of Lithuania, who owned an immovable property in the Republic of Latvia – had the right to receive immovable property tax relief in 2013. At first, it seemed that the applicant could not get relief accordingly to the Binding Regulation No.37 of the Jurmala City Council, but the Court decided to check whether this restriction in this regulation was 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 on grounds 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>
<p>Results (e.g. sanctions) and key consequences or implications of the</p>	<p>The Administrative Regional Court recognised that paragraph 3 of Binding Regulation No.37, so far as it restricts the European Union nationals of Member States, does not comply with international rules - the first paragraph of Article 18 of the TFEU.</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, which prohibits any discrimination on grounds of nationality. That means that the restriction included in Binding</p>

<p>case (max. 500 chars)</p>	<p>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 complied 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 was not applicable, the court accepted the application and imposed a duty on the Jurmala City Council – to grant an immovable tax relief in 2013.</p>
<p>Key quotations in original language and translated into English with reference details (max. 500 chars)</p>	<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><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. [...] 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>Translation:</p> <p><i>"[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. [...]"</i></p> <p><i>"[20] ... the Regional Court acknowledges, that 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.</i></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 referred to the Charter of Fundamental Rights? If yes, to which specific article.</p>	<p>No.</p>

<p>4. Subject matter concerned</p>	<p><input type="checkbox"/> 1) non-discrimination on grounds of nationality</p> <p><input checked="" type="checkbox"/> 2) freedom of movement and residence - linked to Article 4, 5 of Directive 2004/38</p> <p><input type="checkbox"/> 3) voting rights</p> <p><input type="checkbox"/> 4) diplomatic protection</p> <p><input type="checkbox"/> 5) the right to petition</p>
<p>Decision date</p>	<p>4 March 2014</p>
<p>Deciding body (in original language)</p>	<p>Administratīvā apgabaltiesa</p>

Deciding body (in English)	Administrative regional Court
Case number (also European Case Law Identifier (ECLI) where applicable)	Case No. A420383312 (archive No. AA43-1382-14/17)
Parties	Applicant: a natural person (name of person is anonymised) / <i>fiziskā persona (vārds anonimizēts)</i> Defendant: Office of Citizenship and Migration Affairs (OCMA) / <i>Pilsonības un migrācijas lietu pārvalde</i>
Web link to the decision (if available)	https://manas.tiesas.lv/eTiesas/
Legal basis in national law of the rights under dispute	Official Language Law, entered into force on 1 September 2000 / <i>Valsts valodas likums</i> . Cabinet Regulation No. 114, adopted on 2 March 2004 „Regulation on the writing and the use of personal names in Latvian as well as their identification” / <i>Ministru Kabineta 2004.gada 2.Marta noteikumi Nr.114 “Noteikumi par personvārdu rakstību un lietošanu latviešu valodā, kā arī to identifikāciju”</i> .
Key facts of the case (max. 500 chars)	The applicant’s (parents’ nationality is not indicated in the judgement) child, who is both a Latvian and a German citizen, was born in Germany where he was registered with the name “Mark”. Later the child was also granted citizenship of the Republic of Latvia, but his name according to the decision of OCMA was registered as “Marks”. The applicant appealed the decision of OCMA in court.
Main reasoning / argumentation (max. 500 chars)	The applicant pointed that OCMA had acted contrary to the European Union law and had not complied with the Article 21 of the TFEU. Although the difference is just in one letter, it is very significant, and taking into account that the child is also of German origin, it causes negative associations, e.g. with Karl Marx.

	<p>OCMA pointed that the reproduction of the name in Latvian is not a refusal to recognise the name, but the adaptation to the characteristics of Latvian grammar. Adding endings is not comparable with the change of the name, or the refusal to register a name. Besides, the third page of the passport of the child includes the original form of his name in Latin transliteration.</p>
<p>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</p>	<p>The dispute was whether the applicant's name registration in the Population Register in such a form could lead to the restrictions on free movement (e.g. when travelling between countries, it could be difficult to prove at the airport that it is the same person whose name is on flight ticket) protected by the Article 21 of the TFEU. If a citizen of the European Union was born in one of the Member States and his name in the civil register (including birth certificate) of that Member State is determined and registered in accordance with the laws of that Member State, then such person's name must be recognised in all other Member States, including in the country of the person's citizenship. And, if there is a restriction, is it justified by objective considerations and proportionate to the legitimate aim determined in the national law?</p> <p>The issue that had to be considered was whether the portrayal of the applicant's name "Mark" in Latvian by adding the ending "s" had created sufficiently serious difficulties.</p>
<p>Results (e.g. sanctions) and key consequences or implications of the case (max. 500 chars)</p>	<p>The court concluded that the appeal was unfounded and the application had to be dismissed. The court pointed that the possibility of any inconvenience in the future could not be completely excluded in connection with the different spelling of the applicant's name in the documents issued by Germany and Latvia. However, the court found no potential serious difficulties. Consequently, the Court concluded that the restriction was not disproportionate and thus there was no violation of the Article 21 of the TFEU detectable. Furthermore, the child's name in its original form was included on the third page of the child's passport.</p>

<p>Key quotations in original language and translated into English with reference details (max. 500 chars)</p>	<p>"4.8. [...]</p> <p><i>Pieteicējs ir vienlaikus Vācijas un Latvijas pilsonis, un šobrīd nav konstatējama nepārprotami ciešāka pieteicēja saikne ar vienu vai otru valsti. Dzīves laikā iegūstot izglītības vai citus dokumentus, pieteicējs varēs lūgt tajos iekļaut abas personvārda rakstības formas, (..). Turklāt apstākļos, kad personas rīcībā ir abu valstu izsniegti personu apliecinoši dokumenti, turklāt Latvijas pasē norādīta arī personvārda oriģinālforma, iespējamās šaubas par pieteicēja personas identitāti personvārda nesakritības dēļ ir viegli kļiedējamas."</i></p> <p>Translation: "4.8. [...]</p> <p>The applicant is both a German and a Latvian citizen, and currently a closer relationship of the applicant with one or the other country is not identifiable. During lifetime in acquiring education or other documents, the applicant will be able to request the inclusion in the documents in writing both forms of his name [...]. Furthermore, in circumstances where the person has identity documents issued by the two countries, and moreover, the Latvian passport includes the original form of the name, any doubts about the applicant's identity in connection with the discrepancy about the names can be easily dispelled."</p>
<p>Has the deciding body referred to the Charter of Fundamental Rights? If yes, to which specific article.</p>	<p>Yes, Article 45.</p>

5. Subject matter concerned	<input type="checkbox"/> 1) non-discrimination on grounds of nationality <input checked="" type="checkbox"/> 2) freedom of movement and residence - linked to the Article 6 paragraph 1 of 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	22 November 2016.
Deciding body (in original language)	Administratīvā apgabaltiesa
Deciding body (in English)	Administrative Regional Court
Case number (also European Case Law Identifier (ECLI) where applicable)	Case No A420321213 (archive No AA43-2327-16/5)
Parties	Applicant: a natural person (name of person is anonymised) Defendant: The State Social Insurance Agency (hereafter - SSIA)/ <i>Valsts sociālās apdrošināšanas aģentūra</i>
Web link to the decision (if available)	https://manas.tiesas.lv/eTiesas/

Legal basis in national law of the rights under dispute	<p>Law on State Social Allowances, entered into force on 1 January 2003 / Valsts sociālo pabalstu likums, stājies spēkā 01.01.2003.</p>
Key facts of the case (max. 500 chars)	<p>From 13 July 2009 until 30 December 2010, the applicant was on parental leave and received parental benefit and childcare allowance. During this period and later, during the period of the dispute, the applicant was not employed. Since 19 April 2010, the applicant (a citizen of the Republic of Latvia), her child (also a citizen of the Republic of Latvia) and husband (no information about citizenship) have lived in Sweden. On this date, she and her husband were given Swedish personal identification numbers. From 14 July until 16 July 2010, on 31 December 2010, on 6 January 2011 and on 1 June 2011, the applicant with her daughter came to Latvia with a purpose to visit a doctor.</p> <p>In a submission dated 22 September 2011, the applicant indicated to the SSIA that she wished to give up the family allowance because she has lived in Sweden for more than a year.</p> <p>SSIA identified the overpayment of childcare benefit for the period from 1 January 2011 until 25 May 2011 and the state family allowance for the period from 1 January 2011 until 30 September 2011 and decided to demand the repayment of overpaid benefits from the applicant. With first instance judgement, the decision of SSIA was cancelled. The court agreed with the applicant that the receipt of benefits depended on whether the applicant and her child permanently resided in the territory of Latvia. The applicant did not get benefits from Sweden while she stayed there and she was just visiting her husband. The court concluded that according to Directive 2004/38/EC, to consider that the applicant and her daughter were residing in Sweden permanently, she and her daughter had to be residents of Sweden for at least five years, but they were there only nine months, and they should have receive a document proving the person's right to permanent residence.</p> <p>SSIA submitted an appeal stating that the court wrongly interpreted the concept of permanent residence, and there was no reason to apply the regulation of Directive 2004/38/EC, but Regulation No 987/2009 should have been applied.</p> <p>The court of second instance agreed with the court of first instance.</p>

	<p>After having reviewed the cassation complaint, the Supreme Court revoked the judgment of the Regional Administrative Court and sent the case for retrial to the Administrative Regional Court.</p>
<p>Main reasoning / argumentation (max. 500 chars)</p>	<p>Article 11, paragraph 1 of Regulation 987/2009 provides for elements for determining residence. According to paragraph 2 of Article 11, where the consideration of the various criteria based on relevant facts, as set out in paragraph 1, does not lead to agreement between the institutions concerned, the person's intention, as it appears from such facts and circumstances, especially the reasons that led the person to move, shall be considered to be decisive for establishing that person's actual place of residence. The Administrative Regional court concluded that the husband of the applicant had informed the Swedish institutions that his wife and daughter lived together with him in Sweden, and that the applicant and her husband were given Swedish personal identification numbers.</p> <p>The Administrative Regional Court pointed that the actions of the applicant – the registration with the Swedish authority – confirmed the intention of the applicant to stay in Sweden not only temporarily with her husband, but to stay for a long time in Sweden.</p>
<p>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</p>	<p>There was a dispute about the facts and their legal assessment, namely, whether the place of residence of the applicant during the period of dispute was the Republic of Latvia (or Sweden) within the meaning of Regulation No. 883/2004 Article 11, paragraph 3, clause 'e'.</p>
<p>Results (e.g. sanctions) and key consequences or implications of the case (max. 500 chars)</p>	<p>The Administrative Regional Court recognised that the application of the applicant was not justified and, therefore, was to be rejected.</p> <p>The final court (Administrative Regional Court) recognised that the living conditions of family members of the applicant (employment, residence registration in Sweden) were indicative of the fact that families' economic interests were set in Sweden. Thus, it was irrelevant that the applicant's registered domicile was in the Republic of Latvia, because the Regional Court found that the applicant and her family during the period of dispute did not work and did not live permanently in the Republic of Latvia.</p>

<p>Key quotations in original language and translated into English with reference details (max. 500 chars)</p>	<p><i>"[13] [...] Atbilstoši direktīvas Nr.2004/38/EK 6.panta pirmajai daļai Eiropas Savienības pilsoņiem ir tiesības uzturēties citas dalībvalsts teritorijā uz laiku līdz trim mēnešiem, neizvirzot viņiem nosacījumus vai formalitāšu ievērošanu. Tādējādi secināms, ka pieteicējas darbības, reģistrējoties Zviedrijas iestādē, apliecina pieteicējas nodomu ne tikai īslaicīgi uzturēties pie sava vīra Zviedrijā, bet uzturēties Zviedrijā ilgstoši. Apgabaltiesas vērtējumā pieteicēja apzinājās, ka gadījumā, ja viņa ierodas vienīgi īslaicīgā vizītē Zviedrijā, viņai nav nepieciešams reģistrēties valstī kā personai, kas pastāvīgi uzturas šajā valstī."</i></p> <p>Translation: "[13] [...] According to Directive 2004/38/EC, Article 6, paragraph 1, Union citizens have the right of residence on the territory of another Member State for a period of up to three months without any conditions or any formalities. Thus, it can be concluded that the actions of the applicant – registration with the Swedish authority – confirms the intention of the applicant to stay in Sweden, not only temporarily with her husband, but to stay for a long time in Sweden. In the assessment of the Regional Court the applicant was aware that if she arrives only for a short-term visit to Sweden, she does not need to register in the country as a person residing in the country."</p>
<p>Has the deciding body referred to the Charter of Fundamental Rights? If yes, to which specific article.</p>	<p>No.</p>

2. Table 2 – Overview

	non-discrimination on grounds of nationality	the right to move and reside freely in another Member State	the right to vote and to stand as candidates	the right to enjoy diplomatic protection of any Member State	the right to petition
Please provide the total number of national cases decided and relevant for the objective of the research if this data is available (covering the reference period)	1	4			