



A Member State can maintain an indefinite ban on voting in European Parliament elections for certain nationals of that State

Such a ban must, however, be proportionate to the aim pursued

Until 1 March 1994, under French law, a person convicted of a serious criminal offence was automatically and permanently deprived of civic rights (the right to vote and the right to stand for election). After the reform of the Criminal Code, that ban ceased to be automatic and must now be imposed by a court for a period which may not exceed 10 years. However, that new rule does not apply to convictions by a final judgment delivered before the new Code entered into force.

In 1988, Mr Thierry Delvigne, a French national, was convicted by a final judgment of a serious crime in France. On the basis of the criminal law in force at that time, he was automatically permanently deprived of his civic rights. Notwithstanding the reform of the Criminal Code in 1994, Mr Delvigne continued to be deprived of his civic rights on the ground that that deprivation resulted from a criminal conviction that had become final before the new Criminal Code entered into force. Mr Delvigne can therefore no longer vote in France, including in elections to the European Parliament.

Since Mr Delvigne is challenging the maintenance of that ban, the tribunal d'instance de Bordeaux (Bordeaux District Court) has asked the Court of Justice whether, taking into account the right of EU citizens to vote in elections to the European Parliament, a Member State may make provision for a general, indefinite and automatic ban on exercising civil and political rights in a case such as that of Mr Delvigne.

In today's judgment, the Court finds first of all that **the deprivation of the right to vote to which Mr Delvigne is subject represents a limitation of the exercise of the right of EU citizens to vote in elections to the European Parliament**, as guaranteed in the Charter of Fundamental Rights of the European Union. The Court notes that limitations may, however, be imposed on the exercise of fundamental rights, and provided, inter alia, that they are proportionate.

In this case, the Court considers that **the ban to which Mr Delvigne is subject is proportionate in so far as it takes into account the nature and gravity of the criminal offence committed and the duration of the penalty**. The ban in question applied, at the time, only to persons convicted of a criminal offence punishable by at least five years' imprisonment. Furthermore, French law allows a person in Mr Delvigne's situation to apply for, and obtain, reinstatement of the civic rights lost. The Court concludes **that it is possible to maintain a ban which, by operation of law, precludes persons convicted of a serious crime from voting in elections to the European Parliament**.

The Court makes clear that that conclusion is not called into question by the rule of retroactive effect of a more lenient criminal law, under which any lighter penalty provided for by law after the commission of a criminal offence must be applied. The reform of the Criminal Code (which introduced a more lenient regime in respect of the loss of civic rights than that which had previously applied) does not affect Mr Delvigne's situation, since he had already been finally convicted before the reform came into force. In other words, the French legislation was limited to

maintaining the permanent deprivation of the right to vote only in respect of final convictions by judgment delivered at last instance under the old Criminal Code.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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