



Press and Information

Court of Justice of the European Union
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Judgment in Case C-182/15
Aleksei Petruhhin

A Member State is not required to grant every Union citizen who has moved within its territory the same protection against extradition as that granted to its own nationals

However, before extraditing the citizen, the Member State concerned must give priority to the exchange of information with the Member State of origin and allow that Member State to request the citizen's surrender for the purposes of prosecution

Aleksei Petruhhin, an Estonian national, was made the subject of a priority Red Notice on Interpol's website. He was arrested on 30 September 2014 in the town of Bauska (Latvia), then placed in provisional custody. On 21 October 2014, the Latvian authorities received an extradition request from Russia. That request stated that criminal proceedings were initiated against Mr Petruhhin and that he had to be placed in custody for attempted large-scale, organised drug-trafficking. Under Russian law, that offence is punishable with a term of imprisonment of between 8 and 20 years.

The Latvian Public Prosecutor's Office authorised Mr Petruhhin's extradition to Russia. However, Mr Petruhhin filed an appeal against the extradition decision, on the ground that, under the agreement on judicial assistance and judicial relations concluded between the Baltic countries, he enjoyed the same rights in Latvia as a Latvian national and that, since Latvian law prohibits in principle the extradition of Latvian nationals and, in accordance with a treaty concluded with Russia, Latvia does not extradite its own nationals to that country, Latvia was required to protect Mr Petruhhin against unjustified extradition.

The Augstākā tiesa (Supreme Court, Latvia) observed that neither Latvian national law nor any of the international agreements signed by Latvia with, in particular, Russia or the other Baltic countries restrict the extradition of an Estonian national to Russia. Under those international agreements, protection against such extradition is conferred only on Latvian nationals. Nonetheless, the lack of protection of Union citizens against extradition, when they have moved to a Member State other than the one of which they are nationals, could be contrary to the right of Union citizens to protection equivalent to that of a Member State's own nationals.

In those circumstances, the Latvian Supreme Court asked the Court of Justice whether, for the purposes of applying an extradition agreement concluded between a Member State and a non-member State, the nationals of another Member State must benefit, in the light of the principle of non-discrimination on grounds of nationality and the freedom of movement and of residence of Union citizens, from the rule which prohibits the extradition by the first Member State of its own nationals. The Latvian Supreme Court also asked whether the requested Member State (namely, the Member State from which a non-member State requests the extradition of a national of another Member State, in this case Latvia) must verify (and, if necessary, according to which criteria) that the extradition will not prejudice the rights protected by the Charter of Fundamental Rights of the European Union.

In its judgment today, the Court points out, first of all, that by moving to Latvia, Mr Petruhhin, an Estonian national, made use, in his capacity as a Union citizen, of his right to move freely within the European Union, so that his situation falls within the scope of application of the Treaties and, therefore, of the principle of non-discrimination on grounds of nationality.

However, the national rules on extradition at issue give rise to a difference in treatment depending on whether the person concerned is a national of the Member State in question or a national of another Member State. Indeed, they result in the nationals of other Member States, such as Mr Petruhhin, not being granted the protection against extradition enjoyed by nationals of the Member State in question. In so doing, such rules are liable to affect the freedom of citizens such as Mr Petruhhin to move within the European Union and are, therefore, a restriction on the freedom of movement.

Such a restriction can be justified only where it is based on objective considerations and is proportionate to a legitimate objective of the national law.

The objective of preventing the risk of impunity for persons who have committed an offence must be considered a legitimate objective in EU law.

Extradition is a procedure whose aim is to combat the impunity of a person who is present in a territory other than that in which he has allegedly committed an offence. Although the non-extradition of its own nationals is generally counterbalanced by the possibility for the requested Member State to prosecute such nationals for serious offences committed outside its territory, that Member State as a general rule has no jurisdiction to try cases concerning such acts when neither the perpetrator nor the victim of the alleged offence is a national of that Member State. Extradition thus allows offences committed in the territory of a State by persons who have fled that territory not to remain unpunished.

In that context, national rules which allow an extradition request to be granted for the purposes of prosecution and judgment in the non-member State where the offence is alleged to have been committed are appropriate to achieve the objective pursued.

In the absence of rules of EU law governing extradition between the Member States and a non-member State, it is, however, necessary, in order to combat the risk of impunity while at the same time safeguarding EU nationals from measures liable to deprive them of the right to freedom of movement, to implement all the cooperation and mutual assistance mechanisms provided for in the criminal field under EU law.

Consequently, **the exchange of information** with the Member State of which the person concerned is a national must be **given priority** in order to **afford the authorities of that Member State, in so far as they may, pursuant to their national law, prosecute that person for offences committed outside their territory, the opportunity to issue a European arrest warrant for the purposes of prosecution.** In cooperating accordingly with the Member State of which the person concerned is a national and giving priority to that potential arrest warrant over the extradition request, the host Member State acts in a manner which is less prejudicial to the exercise of freedom of movement while avoiding, as far as possible, the risk of impunity.

In addition, the Court notes that, according to the Charter, no one may be removed, expelled or extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment. It follows that, **in so far as the competent authority of the requested Member State is in possession of evidence of a real risk of inhuman or degrading treatment of individuals in the non-member State concerned, it is bound to assess the existence of that risk when it decides on the extradition request.**

To that end, the competent authority of the requested Member State must rely on information that is objective, reliable, specific and properly updated. That information may be obtained from, inter alia, judgments of international courts, such as judgments of the European Court of Human Rights, judgments of courts of the non-member State concerned, and also decisions, reports and other documents produced by bodies of the Council of Europe or under the aegis of the United Nations.

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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