



Press and Information

Court of Justice of the European Union

PRESS RELEASE No 37/18

Luxembourg, 10 April 2018

Judgment in Case C-191/16

Romano Pisciotti v Bundesrepublik Deutschland

A Member State is not required to extend a prohibition on the extradition of its own nationals to the United States to every EU citizen travelling in its territory

However, before extraditing an EU citizen, a requested Member State must put the citizen's Member State in a position to seek the surrender of that citizen pursuant to a European arrest warrant

Mr Romano Pisciotti, an Italian national, had been accused in the United States of America of anti-competitive agreements and practices in the market for marine hoses. When his flight from Nigeria to Italy made a stopover, Mr Pisciotti was arrested in Germany. On the basis of the EU-USA Agreement on extradition, he was then extradited to the United States, where he was subsequently fined and imprisoned for two years.

Mr Pisciotti brought an action before the Landgericht Berlin (Regional Court, Berlin, Germany) claiming that Germany should be required to pay damages. Mr Pisciotti maintained that Germany had breached EU law and, in particular, the general principle of non-discrimination, by refusing to extend to him the benefit of the prohibition in the German Basic Law of the extradition of any German national.

The Landgericht Berlin referred questions to the Court of Justice in that regard.

In today's judgment, the Court holds, first of all, that the situation of an EU citizen, such as Mr Pisciotti (who has been the subject of a request for extradition to the United States), who has been arrested, for the purposes of potentially acceding to that request, in a Member State (Germany) other than the Member State of which he is a national (Italy)), falls within the scope of EU law since, by stopping over in Germany during his return journey from Nigeria, he had made use of his right to move freely within the EU and the request for extradition was made under the EU-USA Agreement. The fact that, when he was arrested, Mr Pisciotti was only in transit in Germany is irrelevant in that regard.

The Court also holds that, in such a case, **EU law¹ does not preclude the requested Member State (Germany) from drawing a distinction, on the basis of a rule of constitutional law, between its nationals and the nationals of other Member States and from granting extradition of the EU citizen whilst prohibiting the extradition of its own nationals, provided that the requested Member State already put the competent authorities of the Member State of which the citizen is a national (Italy) in a position to seek the surrender of that citizen pursuant to a European arrest warrant and that the latter Member State has not taken any action in that regard.**

The Court notes that the EU-USA Agreement allows a Member State, on the basis either of the provisions of a bilateral treaty (such as the Germany-United States Treaty on

¹ The prohibition of all discrimination on grounds of nationality and the free movement of every EU citizen.

extradition) or rules of its constitutional law (such as the German Basic Law) to provide for a particular outcome for its own nationals by precluding their extradition.

It is true that, in a situation such as that in the main proceedings, unequal treatment which allows the extradition of an EU citizen who is a national of another Member State (such as Mr Piscioti) gives rise to a restriction of freedom of movement.

However, as the Court has already held,² the objective of preventing the risk of impunity for persons who have committed an offence is a legitimate objective capable, in principle, of justifying such a restriction.

Nonetheless, the measure in question must also be necessary for attaining that objective and the objective must not be attainable by a less restrictive measure, such as the surrender of the EU citizen to his Member State of origin, provided that that Member State has jurisdiction to prosecute him in the context of a European arrest warrant for the same offences as those alleged against him in the request for extradition.

In the present case, the Italian consular authorities were kept informed of Mr Piscioti's situation and the Italian judicial authorities did not issue a European arrest warrant against him before the request for extradition at issue was granted. It follows that EU law did not preclude the extradition of Mr Piscioti to the United States.

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.

Unofficial document for media use, not binding on the Court of Justice.

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

Press contact: Holly Gallagher ☎ (+352) 4303 3355

Pictures of the delivery of the judgment are available from "[Europe by Satellite](#)" ☎ (+32) 2 2964106

² Case: [C-182/15](#) Petruhin, see also Press Release No [84/16](#).