

Subject-matter concerned	<input checked="" type="checkbox"/> x 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 <input type="checkbox"/> 3) voting rights <input type="checkbox"/> 4) diplomatic protection <input type="checkbox"/> 5) the right to petition
Decision date	11 November 2008
Deciding body (in original language)	Hoge Raad
Deciding body (in English)	Supreme Court
Case number (also European Case Law Identifier (ECLI) where applicable)	ECLI:NL:HR:2008:BC9547
Parties	Republic of Croatia (request of extradition of national) (<i>Republiek Kroatië, verzoek tot uitlevering</i>)Croatian v. Public Prosecutor (
Web link to the decision (if available)	https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:HR:2008:BC9546&showbutton=true&keyword=%22ECLI%3aNL%3aHR%3a2008%3aBC9546%22
Legal basis in national law of the rights under dispute	<p>Article 12 EC Treaty, now article 18 TFEU, Article 24 of Directive 2004/38/EC, Article 4.1. of the Extradition Treaty and Article 4a of the Dutch Penal Code (<i>Wetboek van Strafrecht</i> 1881), which states that the Dutch Penal Code applies to anyone whose prosecution has been adopted by the Dutch State on the basis of a Treaty which lays down that the jurisdiction to prosecute rests in the Netherlands.</p> <p>The Netherlands, Penal Code (<i>Wetboek van Strafrecht</i>) , Article 4a , as changed by the following act: The Netherlands, Act review of the rules concerning <i>Wet herziening regels betreffende extraterritoriale, (Wet herziening regels betreffende extraterritoriale rechtsmacht in strafzaken)</i>, 27 November 2013</p>
Key facts of the case (max. 500 chars)	Croatia asked the Netherlands to extradite a Croatian national on grounds of a crime for which he was sentenced in Croatia. The Croatian national argues that based on Article 12 of the EC Treaty and Article 24 of Directive 2004/38/EC he is entitled to equal treatment with Dutch nationals so that he cannot be extradited (since a Dutchman could not be extradited on the basis of Article 4.1. of the Extradition Treaty) . However, the Supreme Court holds that, if the Croatian is not extradited he cannot be sentenced in the

	Netherlands anymore, contrary to what would have happened to a Dutchman. He should therefore be extradited.
Main reasoning / argumentation (max. 500 chars)	The Supreme Court does not judge whether there is unequal treatment of equal cases on the basis of nationality, as there is a reasonable and objective justification for unequal treatment. If the Croatian is not extradited, he cannot be prosecuted in the Netherlands for a crime for which he was sentenced in Croatia, whereas a Dutchman in such a case could still be prosecuted in the Netherlands. He should therefore be extradited. To define who has jurisdiction in cases like these is up to the legislative power.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	This case makes clear that unequal treatment of EU citizens is possible on the basis of a reasonable and objective justification. Different treatment of EU citizens does not amount to unequal treatment where there is a reasonable and objective justification for it.
Results (e.g. sanctions) and key consequences or implications of the case (max. 500 chars)	The Croatian will be extradited to Croatia and he will have to follow up his sentence there.
Key quotations in original language and translated into English with reference details (max. 500 chars)	<p>3.7.2. De Hoge Raad laat in het midden of de opgeëiste persoon binnen de personele werkingssfeer van het EG-verdrag valt, of de regeling van art. 4 UW binnen de materiële werkingssfeer van het EG-verdrag valt, en of sprake is van ongelijke behandeling van gelijke gevallen op grond van nationaliteit, aangezien in het onderhavige geval een redelijke en objectieve rechtvaardiging bestaat voor ongelijke behandeling. In geval van niet-uitlevering aan Kroatië kan de opgeëiste persoon immers niet alsnog in Nederland worden vervolgd voor het misdrijf waarvoor hij in Kroatië is veroordeeld, terwijl een Nederlander in zo een geval op grond van art. 5 Sr wel alsnog hier te lande vervolgd kan worden.</p> <p>3.7.2. The Supreme court does not judge whether the person whose extradition has been requested is covered by the personal scope of the EC-Treaty, or whether the stipulation laid down in Article 4 of the Extradition Treaty is within the scope of the EC-Treaty, and whether there is unequal treatment of equal cases on the basis of nationality, as there is a reasonable and objective justification in this case for unequal treatment. It is clear that if there were no extradition to Croatia, the person in question cannot be prosecuted in the Netherlands for the crime for which he was sentenced in Croatia, whereas a Dutchman, on the basis of Article 5 of the Penal Code, would be prosecuted in the Netherlands.</p>
Has the deciding body refer to the Charter of Fundamental Rights. If yes, to which specific Article.	No.