

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 article 28 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	17 October 2007
Deciding body (in original language)	Višje sodišče v Kopru
Deciding body (in English)	Koper Higher Court
Case number (also European Case Law Identifier (ECLI) where applicable)	Kp 213/2007 ECLI:SI:VSKP:2007:KP.213.2007
Parties	Prosecutor: P. T.; defendant: I. M. D. (anonymised)
Web link to the decision (if available)	www.sodnapraksa.si/?q=Kp%20213/2007&database[SOVS]=SOVS&database[IESP]=IESP&_submit=i%C5%A1%C4%8Di&rowsPerPage=20&page=0&id=1526
Legal basis in national law of the rights under dispute	Art. 40 of the Criminal Code (<i>Kazenski zakonik</i> ¹)
Key facts of the case (max. 500 chars)	The Koper Higher Court (<i>Višje sodišče v Kopru</i>) affirmed the decision of the court of first instance that issued the defendant with a sanction of expulsion from the territory of the Republic of Slovenia under Art. 40 of the Criminal Code. The defendant was a citizen of Romania, already an EU member state at the time. The defendant was found guilty of grand larceny. The offence was committed in association with co-perpetrator against an elderly woman.
Main reasoning / argumentation (max. 500 chars)	The court applied Art. 28 of the Directive and found that the expulsion was justified for the purpose of protecting the public order due to the single fact that the defendant was found guilty of a criminal offence. It also found that the circumstances under Art. 28 of the Directive do not prevent issuing of an expulsion order.
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	The court applied the public order exception. It took a broad approach and found the exception applicable due to the very fact that the person was found guilty of a criminal offence. The court did not perform a detailed analysis of the defendant's conduct (apart from the offence itself).

Results (e.g. sanctions) and key consequences or implications of the case (max. 500 chars)	The conviction as well as the sanction of expulsion was affirmed.
Key quotations in original language and translated into English with reference details (max. 500 chars)	<p>Gotovo je, da je obravnavano kaznivo dejanje bilo uperjeno zoper javni red naše države, ki ima zato interes, da se obtoženca odstranita z našega ozemlja. Navedeni pogoj iz direktive je torej izpolnjen, pri čimer pri obeh obtožencih niso podane nobene izmed okoliščin, ki jih našteva 28. člen Direktive. Zato se izkaže, da je izrečena stranska kazen tudi sedaj, ko je Romunija postala članica EU, povsem na mestu.</p> <p>The criminal offence in question was no doubt aimed against the public order of the state. The state may, therefore, pursue its interest to remove the defendant from its territory. The relevant conditions under the Directive were met and no circumstances set out under Art. 28 of the Directive exist. The order stands even as Romain became an EU Member State.</p> <p>Reference: see URL above.</p>
Has the deciding body refer to the Charter of Fundamental Rights. If yes, to which specific Article.	No.