



Press and Information

Court of Justice of the European Union

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Judgment in Case C-221/17

Tjebbes and Others v Minister van Buitenlandse Zaken

EU law does not preclude the loss of the nationality of a Member State and, consequently, the loss of citizenship of the EU, where the genuine link between the person concerned and that Member State is durably interrupted

However, the principle of proportionality requires an individual examination of the consequences of that loss for the persons concerned from the point of the view of EU law

A number of Dutch citizens possessing a second nationality of a non-EU country brought proceedings before courts in the Netherlands following the refusal of the Minister of Foreign Affairs to examine their applications for renewal of their national passports. The Minister's refusal was based on the Law on Netherlands nationality, which provides that an adult loses that nationality if he also possesses a foreign nationality and if, after attaining his majority, he has his principal residence for an uninterrupted period of 10 years outside the Netherlands and the EU. However, that 10-year period is interrupted if the person concerned has his principal residence in the Netherlands or in the EU for a period of no less than one year. Similarly, the period is interrupted if the person concerned applies for the issue of a declaration regarding the possession of Netherlands nationality, a travel document (passport) or a Netherlands identity card. A new 10-year period starts to run as from the date of issue one of those documents. Furthermore, a minor loses, in principle, his Netherlands nationality if his father or mother loses that nationality.

The Raad van State (Council of State, Netherlands), before which those disputes have been brought, is uncertain as to the discretion that Member States enjoy in laying down the conditions governing loss of nationality and has referred a question on that subject to the Court of Justice. It asks, in particular, whether the loss of Netherlands nationality by operation of law, which also entails the loss of citizenship of the EU, is compatible with EU law.

In today's judgment, the Court recalls that it has previously held that Article 20 TFEU confers on every individual who is a national of a Member State citizenship of the EU, which is intended to be the fundamental status of nationals of the Member States. Accordingly, the situation of citizens of the EU who, like the applicants in the main proceedings, are nationals of one Member State only and who, by losing that nationality, are faced with losing the status conferred by Article 20 TFEU and the rights attaching thereto falls, by reason of its nature and its consequences, within the ambit of EU law.

The Court notes that the Netherlands legislature sought to introduce a system to avoid, inter alia, the undesirable consequences of one person having multiple nationalities. The Netherlands Government specified in that regard that the objective of the Law on nationality is, inter alia, to preclude persons from obtaining or retaining Netherlands nationality where they do not, or no longer have, any genuine link with the Netherlands. The provisions of that legislation relating to minors are intended, in turn, to restore unity of nationality within the family.

In that regard, the Court considers that a criterion based on the habitual residence of Netherlands nationals for an uninterrupted period of 10 years outside the EU may be regarded as legitimate because it is an indication that there is no such link. In addition, that legitimacy is supported by international provisions providing, in similar situations, for loss of nationality of the country concerned, provided that the risk of statelessness is precluded, which Netherlands legislation does in the present case. It is further supported by the fact that the issuing of a declaration regarding the

possession of Netherlands nationality, a travel document or a Netherlands identity card is sufficient for considering that the person concerned intends to retain a genuine link with the Netherlands.

Nevertheless, the loss of the nationality of a Member State by operation of law would be inconsistent with the principle of proportionality if the relevant national rules did not permit at any time an individual examination of the consequences of that loss for the persons concerned from the point of view of EU law. According to the Court, the competent national authorities and courts must be in a position to examine, as an ancillary issue, the consequences of the loss of that nationality and, where appropriate, to have the person concerned recover his or her nationality retroactively in the context of an application by that person for a travel document or any other document showing his or her nationality.

The Court adds that, as part of that examination of proportionality, it is, in particular, for the competent national authorities and, where appropriate, for the national courts to ensure that the loss of nationality is consistent with the Charter of Fundamental Rights of the European Union, and specifically the right to respect for family life, in conjunction with the obligation to take into consideration the best interests of the child.

As regards the relevant circumstances of that examination, the Court mentions, *inter alia*, the fact that the person concerned would be exposed to limitations when exercising his or her right to move and reside freely in the territory of the Member States, including, depending on the circumstances, particular difficulties in continuing to travel to the Netherlands or to another Member State in order to retain genuine and regular links with members of his or her family, to pursue his or her professional activity or to undertake the necessary steps to pursue that activity. Also relevant are, first, the fact that the person concerned might not have been able to renounce the nationality of a third country and, secondly, the serious risk that his or her safety or freedom to come and go would deteriorate because of the impossibility for that person to enjoy consular protection.

Provided that the competent administrative and judicial authorities are in a position to carry out that individual examination of the situation of the person concerned in the light of all the relevant circumstances, EU law does not preclude the loss of nationality of a Member State in the circumstances laid down in the Netherlands legislation.

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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