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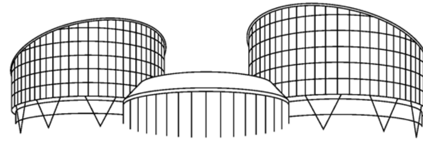

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

SECOND SECTION

DECISION

Application no. 26781/19
Anis LARABA
against Denmark

The European Court of Human Rights (Second Section), sitting on 22 March 2022 as a Chamber composed of:
Carlo Ranzoni, *President,*
Jon Fridrik Kjølbro,
Egidijus Kūris,
Pauliine Koskelo,
Jovan Ilievski,
Saadet Yüksel,
Diana Sârcu, *judges,*
and Stanley Naismith, *Section Registrar,*
Having regard to the above application lodged on 3 May 2019,
Having deliberated, decides as follows:

THE FACTS

A. The circumstances of the case

1. The applicant, Mr Anis Laraba, has dual nationality, Danish and Algerian. He was born in Denmark in 1995 and lives in Horsens. He was represented before the Court by Mr Michael Juul Eriksen, a lawyer practising in Aarhus.

2. The facts of the case, as submitted by the applicant, may be summarised as follows.

3. In spring 2016 the Danish Security and Intelligence Service received a list from Interpol with the names of persons believed to have been recruited by the terrorist organisation Islamic State and to have operated in Syria. The applicant's name was on the list.

4. On 7 April 2016 the applicant was arrested and provisionally charged on the basis of information that he had allegedly entered Syria and had

accepted his recruitment by the terrorist organisation Islamic State in Iraq and the Levant (ISIL). The following day the applicant was remanded in custody.

5. By a District Court (*Retten i Glostrup*) judgment of 13 December 2017, the applicant was convicted of a violation of Article 114c(3) and Article 114d(3) of the Penal Code for having joined Islamic State from July 2013 to April 2014 with the purpose of committing terrorist crimes. He was sentenced to 5 years' imprisonment. Moreover, he was deprived of his Danish citizenship and his expulsion from Denmark was ordered with a permanent re-entry ban.

6. On appeal, on 22 November 2018 the judgment was upheld by the High Court of Eastern Denmark (*Østre Landsret*).

7. Leave to appeal to the Supreme Court (*Højesteret*) was refused on 7 March 2019 by the Appeals Permission Board (*Procesbevillingsnævne*t).

8. The Danish courts noted from the outset that, according to the preparatory work on section 8b of the Act on Danish Nationality, the assessment of whether to withdraw a person's citizenship should be based on a weighing up of the severity of the offence and the impact on the person concerned of the withdrawal of his or her citizenship.

9. As to the severity of the offence, the courts noted that the applicant had been convicted of very serious terrorist crimes under the Penal Code.

10. As to the impact on the applicant of the withdrawal of his citizenship, they took into account that the applicant had been born and raised in Denmark to a Danish mother and an Algerian father who had later also acquired Danish nationality. The applicant's parents and siblings lived in Denmark. He did not have a family of his own. He had family in Algeria, where he had been on holiday with his father around 2011. He spoke Danish and, by his own account, some Arabic. The District Court noted, however, that the applicant had corrected the Prosecutor, when the latter was referring to an Arabic translation during the criminal proceedings. Moreover, in 2016 the applicant had been admitted to the University in Medina to study Sharia in Arabic, but he had been detained in this case before he could go.

11. After having weighed the severity of the offence against the impact of withdrawal of the applicant's citizenship based on an assessment of his situation, including his ties with Denmark and Algeria, his family situation and his language skills, the courts found that his Danish citizenship should be withdrawn. It also found that the conditions in the Danish Aliens Act for expelling the accused had been met. It found that none of these measures would be in breach of Article 8 of the Convention.

B. Relevant domestic law and Council of Europe documents

12. The relevant domestic law and Council of Europe documents were recently set out in *Adam Johansen v. Denmark* (dec.), no. 27801/19, §§ 21-28, 1 February 2022.

COMPLAINT

13. The applicant complained that the order to withdraw his Danish citizenship and to expel him from Denmark was in violation of Article 8 of the Convention.

THE LAW

14. The applicant relied on Article 8 of the Convention, which reads as follows:

> "1. Everyone has the right to respect for his private and family life, his home and his correspondence.
>
> 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

A. Deprivation of citizenship

15. The Court notes that the general principles applicable to cases involving deprivation of nationality are well-established in the Court's case-law (see, for example *K2 v. the United Kingdom* (dec.), no. 42387/13, §§ 49-50, 7 February 2017, *Mansour Said Abdul Salam Mubarak v. Denmark* (dec.), no. 74411/16, §§ 62-63, 22 January 2019, *Ghoumid and Others v. France*, no. 52273/16, §§ 43-44, 25 June 2020, *Usmanov v. Russia*, no. 43936/18, §§ 52-54, 22 December 2020, and *Adam Johansen v. Denmark* (dec.), cited above, §§ 44-45 and 52-55).

1. Arbitrariness

16. The decision to deprive the applicant of his Danish citizenship was based on section 8b of the Act on Danish Nationality. The Court is satisfied by the clarity of the domestic law and can therefore conclude that the decision was "in accordance with the law" (see also, *Mansour Said Abdul Salam Mubarak v. Denmark* (dec.), cited above, § 64, and *Adam Johansen v. Denmark* (dec.), cited above, § 47).

17. The applicant had an opportunity to contest the prosecuting authorities' request to strip him of his Danish citizenship before the domestic courts at two levels of jurisdiction, and he has not alleged any procedural shortcomings in this regard. Accordingly, the applicant was afforded the procedural safeguards required by Article 8 of the Convention (see, *a contrario, Usmanov*, cited above § 66).

18. The Court is also satisfied that the authorities acted diligently and swiftly. It observes that in spring 2016 the Danish Security and Intelligence Service received information from Interpol, leading to the applicant's arrest

on 7 April 2016. On 13 December 2017 the applicant was convicted by the District Court. The judgment was upheld by the High Court on 22 November 2018 and became final on 7 March 2019, when leave to appeal was refused by the Appeals Permission Board.

19. Finally, the revocation of the applicant's Danish citizenship was the consequence of his conviction for a very serious terrorist crime under articles 114c(3) and 114d(3) of the Penal Code. The deprivation of his Danish nationality complained of was thus to a large extent a result of the applicant's own choices and actions (see, *inter alia*, *Ramadan v. Malta*, no. 76136/12, § 89, 21 June 2016). Moreover, as the Court has underlined on numerous occasions, terrorist violence, in itself, constitutes a grave threat to human rights. Accordingly, the Court considers it legitimate for Contracting States to take a firm stand against those who contribute to terrorist acts, which it cannot condone in any circumstances (see, for example, *Ghoumid,* cited above, § 50, and the references mentioned therein).

20. The Court therefore concludes that the decision of the Danish courts to deprive the applicant of his Danish citizenship was not arbitrary.

2. Consequences of the revocation

21. It is not in dispute that the applicant was not rendered stateless by the decision to deprive him of his Danish citizenship (see also, among others, *K2 v. United Kingdom*, cited above, § 62).

22. The preparatory work on section 8b of the Act on Danish Nationality set out that the assessment of whether to withdraw a person's citizenship should be based on a weighing of the seriousness of the offence and the impact on the person concerned. Accordingly, the domestic courts carefully assessed the consequences for the applicant of a revocation of his Danish citizenship in the light of his ties with Denmark and Algeria.

23. The courts took account of the fact that the applicant was born in Denmark, to a Danish mother and an Algerian father who had later also acquired Danish nationality. The applicant had therefore acquired dual nationality by birth. He had strong ties with Denmark, where his parents and siblings lived. He did not have a family of his own. He spoke Danish. They also found that the applicant had some ties with Algeria. He had been there on holiday with his father around 2011. Although he claimed to speak only some Arabic, it was noted that he had corrected the Prosecutor, when the latter was referring to an Arabic translation during the criminal proceedings. Moreover, in 2016 he had been admitted to the University in Medina to study Sharia in Arabic (see paragraph 10 above). In conclusion, based on an overall balancing test, the Danish courts found that the deprivation of the applicant's Danish nationality would not be a disproportionate sanction.

24. The Court finds reason to emphasise that, as opposed to section 8b of the Act on Danish Nationality and, for example, the compatibility of an expulsion order with Article 8 of the Convention, the compatibility of withdrawal of a person's citizenship is not based on a balancing test of

specific criteria, but on the requirement that two separate issues have been addressed: whether the revocation was arbitrary and what the consequences of revocation were for the applicant (see, for example, *Adam Johansen v. Denmark* (dec.), cited above, § 68).

25. In the present case, the Court is satisfied that the domestic courts diligently addressed the consequences of depriving the applicant of his Danish citizenship.

26. Moreover, in the Court's view, taking into account that the applicant was convicted for having joined Islamic State with the purpose of committing terrorist crimes, which themselves constitute a serious threat to human rights and which to a large extent showed his lack of attachment to Denmark and its values (see, *mutatis mutandis*, *Ghoumid and Others v. France*, cited above, § 50), the fact that the applicant in the present case had obtained Danish nationality by birth does not significantly alter or add to the consequences for him (see also *Adam Johansen v. Denmark* (dec.), cited above, § 70).

3. *Conclusion*

27. In view of the above, the Court is satisfied that the domestic courts' assessment of the decision to revoke the applicant's nationality was adequate and sufficient, and does not disclose any appearance of arbitrariness or omission with regard to the applicant's arguments. Consequently, this part of the application must be rejected as manifestly ill-founded pursuant to Article 35 § 3(a) and 4 of the Convention (see also *Ghoumid and Others v. France*, cited above, §§ 51-52, *K2 v. United Kingdom* (dec.), cited above, § 67, *Mansour Said Abdul Salam Mubarak v. Denmark* (dec.), cited above, § 71, and *Adam Johansen v. Denmark*, cited above, § 71).

B. The order to expel the applicant from Denmark

28. It is not in dispute that there was an interference with the applicant's right to respect for his private life within the meaning of Article 8, that the expulsion order was "in accordance with the law" and that it pursued the legitimate aim of preventing disorder and crime.

29. The relevant criteria to be applied in determining whether an interference is necessary in a democratic society are well established and set out in, *inter alia*, *Üner v. the Netherlands* [GC] (no. 46410/99, §§ 54-55 and 57-58, ECHR 2006-XII) and *Maslov v. Austria* [GC] (no. 1638/03, §§ 68-76, ECHR 2008).

30. In respect of the applicant's right to respect for his private life, the domestic courts took the same factors into account as when assessing the impact on the applicant of revocation of his Danish citizenship.

31. These factors included the nature and seriousness of the offence committed by the applicant, the length of the applicant's stay in the country from which he was going to be expelled, the nationalities of the various persons concerned and the solidity of his social, cultural and family ties with

the host country and with the country of destination. Thus, the Danish courts took into account, among other things, that the applicant was born in Denmark and had been sentenced to five years' imprisonment for serious offences committed as an adult (see, also for example, *Levakovic v. Denmark*, no. 7841/14, 23 October 2018, *Balogun v. the United Kingdom*, no. 60286/09, 10 April 2012, and *Mutlag v. Germany*, no. 40601/05, 25 March 2010).

32. The expulsion order in the present case was issued together with a lifelong ban on re-entry. The Court notes in this context that the duration of a ban on re-entry is an element to which it has attached importance in its case-law. In the present case, the Court is convinced that the applicant's crime leading to the expulsion order was of such a nature that he posed a serious threat to public order (see also, *inter alia*, *Mutlag v Germany,* cited above, §§ 61-62, and *Balogun v. the United Kingdom*, cited above, § 53).

33. In conclusion, the domestic courts found that there were compelling reasons to expel the applicant, and that respect for the applicant's private life in Denmark did not make the deprivation of his Danish nationality and expulsion conclusively inappropriate.

34. Having regard to the foregoing considerations, the Court is satisfied that the Danish courts made a thorough assessment of the applicant's personal circumstances, carefully balanced the competing interests, took into account the criteria set out in the Court's case-law and explicitly assessed whether the expulsion order could be deemed contrary to Denmark's international obligations. "Very serious reasons" were adequately adduced by the national authorities when assessing his case, and the expulsion order cannot be said to be disproportionate to the legitimate aim pursued, namely, the protection of the public from the threat of terrorism (see, *inter alia*, *K2 v. United Kingdom*, cited above, § 66, and *Adam Johansen v. Denmark*, cited above, § 84; see also, among many others, *Ndidi v. the United Kingdom*, no. 41215/14, § 76, 14 September 2017, and *Levakovic v. Denmark*, cited above, § 45).

35. Consequently, this part of the application must also be rejected as manifestly ill-founded pursuant to Article 35 § 3(a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 14 April 2022.

Stanley Naismith Registrar	Carlo Ranzoni President