

Netherlands - Raad van State (Council of State) - 201504577/1/A3, 201507057/1/A3, 201508588/1/A3 and 201601993/1/A3 – 19 April 2017 - ECLI:NL:RVS:2017:1098

Loss of Dutch nationality by operation of law - Citizenship Union - Proportionality principle - Articles 20 and 21 TFEU - Article 7 Charter of Fundamental Rights - ECJ-Judgement C-135/08 (Rottmann)

(Tjebbes e.a. against the Minister of Foreign Affairs)

Does EU-law prohibit the automatic loss of Dutch nationality?

In a reference for a preliminary ruling, the Administrative Jurisdiction Division of the Council of State of the Netherlands (the Division) asks the ECJ whether the Netherlands Nationality Act, in which persons under certain circumstances, by operation of law, and thus automatically (ex lege), lose Dutch nationality, is in accordance with Articles 20 and 21 of the TFEU, also in the light of Article 7 of the Charter of Fundamental Rights.

The Division wants to know whether European Union law obliges an individual review of the loss of Dutch nationality in the cases concerned, and whether the relevant provisions of the Netherlands Nationality Act comply with the principle of proportionality, because the loss of Dutch nationality also means the loss of citizenship of the European Union, which makes it impossible for these persons to claim rights related to European Citizenship, such as the free movement of persons.

In four separate cases the Minister of Foreign Affairs refused to consider passport applications because the applicants would have lost Dutch citizenship by operation of law. In three out of four cases the applicants lived outside the European Union for more than ten years and also have the nationality of another (third) country. In one case it concerns someone who lost the Dutch nationality as a minor because her mother had lost Dutch citizenship, due to the above mentioned reason.

The text of the preliminary question will be available on the website of the ECJ (C-221/17).