

Netherlands - Raad van State (Council of State) - 201504577/2/A3, 201507057/2/A3, 201508588/2/A3, 201601993/2/A3, 201604943/1/A3 and 201608752/1/A3 – 12 February 2020 - ECLI:NL:RVS:2020:423

Final Judgment - Loss of Dutch nationality by operation of law - Citizenship Union - Proportionality principle - Articles 20 and 21 TFEU - Article 7 and 24 Charter of Fundamental Rights

(Tjebbes and others against the Minister of Foreign Affairs)

Pursuant to ECJ judgment *C-221/17*, 12 March 2019, *Tjebbes and others*, ECLI:EU:C:2019:189, the Administrative Jurisdiction Division of the Council of State of the Netherlands (Division) rules in its final judgment that the Minister must investigate within four months the consequences of the loss of Dutch nationality, and more specifically, the subsequent consequences of the loss of their EU citizenship for each of the six appellants individually. If it proves that these consequences are ‘disproportionate from the point of view of EU law’, the appellants must be able to become Dutch again with retroactive effect. However, currently the Netherlands Nationality Act 1984 does not offer a legal basis for such an assessment, because the law assumes an automatic loss of nationality (*ex lege*). Pending an amendment to change the Dutch Nationality Act the Minister must base his assessments directly on Article 20 TFEU that governs EU citizenship.

Furthermore the Division rules that the Minister may limit the assessment of the consequences of the loss of nationality to the moment that someone stopped living in the Netherlands or the EU for ten years. He does not have to take into account any consequences that occur after this period.

Also the assessment may be limited to *only* concrete or foreseeable consequences of the loss from the point of view of EU law’. This means that the consequences must be related to the loss of European Union rights, such as the free movement of persons or the right to exercise your profession within the EU. Other arguments, such as the relationship that someone claims to have with the Netherlands or the Dutch language, are not important for this assessment.