



The revocation of an assurance of naturalisation must have due regard to the principle of proportionality where that revocation prevents the person concerned from recovering the citizenship of the Union.

However, it is in principle for the Member State the nationality of which the person concerned applied to relinquish in order to be able to obtain the nationality of another Member State to satisfy itself that its decision in response to that application only enters into force once the new nationality has actually been acquired

In 2008 JY, who was then an Estonian national residing in Austria, applied for Austrian nationality. By decision of 11 March 2014, the then competent Austrian administrative authority ¹ assured her that she would be granted that nationality if she could prove, within two years, that she had relinquished her Estonian nationality. JY provided confirmation within the prescribed period that she had relinquished her Estonian nationality on 27 August 2015. JY has been stateless since.

By decision of 6 July 2017, the Austrian administrative authority which had become competent ² revoked the decision of 11 March 2014, in accordance with national law, and rejected JY's application for Austrian nationality. In order to justify its decision, that authority stated that JY no longer satisfied the conditions for grant of nationality laid down by national law. JY had committed, since receiving the assurance that she would be granted Austrian nationality, two serious administrative offences, namely failing to display a vehicle inspection disc and driving while under the influence of alcohol. She had also committed eight administrative offences before that assurance was given to her.

Following the dismissal of her action against that decision, JY lodged an appeal on a point of law before the Verwaltungsgerichtshof (Supreme Administrative Court, Austria). That court states that, in view of the administrative offences committed by JY before and after she was given assurance as to the grant of Austrian nationality, the conditions for revocation of that assurance were fulfilled under Austrian law. It asks, however, whether JY's situation falls within EU law and whether, in order to adopt its decision revoking the assurance given as to naturalisation, which prevents JY from recovering her citizenship of the Union, the competent administrative authority was required to have due regard to EU law, in particular the principle of proportionality enshrined in EU law, given the consequences of such a decision for the situation of the person concerned.

In those circumstances, the referring court decided to seek a ruling from the Court of Justice on the interpretation of EU law. In its Grand Chamber judgment, the Court interprets Article 20 TFEU in the context of its case-law ³ concerning the obligations of Member States with regard to the acquisition and loss of nationality under EU law.

Findings of the Court

¹ The Niederösterreichische Landesregierung (Government of the Province of Lower Austria, Austria).

² The Wiener Landesregierung (Government of the Province of Vienna, Austria).

³ Arising from the judgments of 2 March 2010, *Rottmann* (C-135/08, see also [PR No 15/10](#)) and of 12 March 2019, *Tjebbes and Others* (C-221/17, see also [PR No 26/19](#)).

In the first place, the Court rules **that the situation of a person who, having the nationality of one Member State only, renounces that nationality and loses, as a result, his or her status of citizen of the Union with a view to obtaining the nationality of another Member State, following the assurance given by the authorities of the latter Member State that she or he will be granted that nationality, falls, by reason of its nature and its consequences, within the scope of EU law where that assurance is revoked with the effect of preventing that person from recovering the status of citizen of the Union.**

In that regard, the Court finds, first, that, when that assurance was revoked, JY was stateless and had lost her status of citizen of the Union. Since the application for dissolution of the bond of nationality with her Member State of origin was made in the context of a naturalisation procedure seeking to obtain Austrian nationality and was a consequence of the fact that JY, taking into account the assurance given to her, complied with the requirements of that procedure, a person such as JY cannot be considered to have renounced voluntarily the status of citizen of the Union. On the contrary, having received from the host Member State the assurance that the nationality of the latter would be granted, the application for dissolution is intended to fulfil a condition for the acquisition of that nationality and, once obtained, to continue to enjoy the status of citizen of the Union and the rights attaching thereto.

Next, where, in the context of a naturalisation procedure, the competent authorities of the host Member State revoke the assurance as to naturalisation, the person concerned who was a national of one other Member State only and renounced his or her original nationality in order to comply with the requirements of that procedure is in a situation in which it is impossible for that person to continue to assert the rights arising from the status of citizen of the Union. Such a procedure, taken as a whole, affects the status conferred by Article 20 TFEU on nationals of the Member States. It may result in a person in JY's situation being deprived of the rights attaching to that status, although, at the start of that procedure, that person was a national of a Member State and thus had the status of citizen of the Union.

Finally, noting that JY, as an Estonian national, has exercised her freedom of movement and residence by settling in Austria, where she has been living for several years, the Court points out that the underlying logic of gradual integration in the society of the host Member State that informs Article 21(1) TFEU requires that the situation of citizens of the Union, who acquired rights under that provision as a result of having exercised their right to free movement within the European Union and are liable to lose not only their entitlement to those rights but also the very status of citizen of the Union, even though they have sought, by becoming naturalised in the host Member State, to become more deeply integrated in the society of that Member State, falls within the scope of the FEU Treaty provisions relating to citizenship of the Union.

In the second place, the Court interprets Article 20 TFEU as meaning that **the competent national authorities and the national courts of the host Member State are required to ascertain whether the decision to revoke, which makes the loss of the status of citizen of the Union permanent for the person concerned, is compatible with the principle of proportionality in the light of the consequences it entails for that person's situation. That requirement of compatibility with the principle of proportionality is not satisfied where such a decision is based on administrative traffic offences which, under the applicable provisions of national law, give rise to a mere pecuniary penalty.**

In order to reach that conclusion, the Court states that, where, in the context of a naturalisation procedure initiated in a Member State, that State requires a citizen of the Union to renounce the nationality of his or her Member State of origin, the exercise and effectiveness of the rights which that citizen of the Union derives from Article 20 TFEU require that that person should not at any time be liable to lose the fundamental status of citizen of the Union by the mere fact of the implementation of that procedure. Any loss, even temporary, of that status means that the person concerned is deprived, for an indefinite period, of the opportunity to enjoy all the rights conferred by that status.

It follows that, **where a national of a Member State applies to relinquish his or her nationality in order to be able to obtain the nationality of another Member State and thus continue to enjoy the status of citizen of the Union, the Member State of origin should not adopt, on the basis of an assurance given by that other Member State that the person concerned will be granted the nationality of that State, a final decision concerning the deprivation of nationality without ensuring that that decision enters into force only once the new nationality has actually been acquired.**

That said, in a situation where the status of citizen of the Union has already been temporarily lost because, in the context of a naturalisation procedure, the Member State of origin withdraws the nationality of the person concerned before that person has actually acquired the nationality of the host Member State, the obligation to ensure the effectiveness of Article 20 TFEU falls primarily on the latter Member State. That obligation arises, in particular, in respect of a decision to revoke the assurance as to naturalisation which may make the loss of the status of citizen of the Union permanent. Such a decision can therefore be made only on legitimate grounds and subject to the principle of proportionality.

Under the examination of proportionality it is necessary to establish, in particular, whether that decision is justified in relation to the gravity of the offences committed by the person concerned. As regards JY, since the offences committed prior to the assurance as to naturalisation did not preclude that assurance being given, they can no longer be taken into account as a basis for the decision to revoke that assurance. As for those committed after receiving the assurance as to naturalisation, in view of their nature and gravity as well as the requirement that the concepts of public policy and public security be interpreted strictly, they do not show that JY represents a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society or a threat to public security in Austria. Traffic offences, punishable by mere administrative fines, cannot be regarded as capable of demonstrating that the person responsible for those offences is a threat to public policy and public security which may justify the permanent loss of his or her status of citizen of the Union.

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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