

Provisional text

JUDGMENT OF THE COURT (Grand Chamber)

12 March 2019 (*)

(Reference for a preliminary ruling — Citizenship of the European Union — Article 20 TFEU — Articles 7 and 24 of the Charter of Fundamental Rights of the European Union — Nationalities of a Member State and of a third country — Loss of the nationality of a Member State and of citizenship of the Union by operation of law — Consequences — Proportionality)

In Case C-221/17,

REQUEST for a preliminary ruling under Article 267 TFEU from the Raad van State (Council of State, Netherlands), made by decision of 19 April 2017, received at the Court on 27 April 2017, in the proceedings

M.G. Tjebbes,

G.J.M. Koopman,

E. Saleh Abady,

L. Duboux

v

Minister van Buitenlandse Zaken,

THE COURT (Grand Chamber),

composed of K. Lenaerts, President, A. Prechal, M. Vilaras, K. Jürimäe and C. Lycourgos (Rapporteur), Presidents of Chambers, A. Rosas, E. Juhász, J. Malenovský, E. Levits, L. Bay Larsen and D. Šváby, Judges,

Advocate General: P. Mengozzi,

Registrar: M.-A. Gaudissart, Deputy Registrar,

having regard to the written procedure and further to the hearing on 24 April 2018,

after considering the observations submitted on behalf of:

- Ms Tjebbes, by A. van Rosmalen,
- Ms Koopman and Ms Duboux, by E. Derksen, advocaat,
- Ms Saleh Abady, by N. van Bremen, advocaat,
- the Netherlands Government, by M.K. Bulterman, M.H.S. Gijzen and J. Langer, acting as Agents,
- Ireland, by M. Browne, L. Williams and A. Joyce, acting as Agents,

- the Greek Government, by T. Papadopoulou, acting as Agent,
 - the European Commission, by H. Kranenborg and E. Montaguti, acting as Agents,
- after hearing the Opinion of the Advocate General at the sitting on 12 July 2018,
- gives the following

Judgment

- 1 This request for a preliminary ruling concerns the interpretation of Articles 20 and 21 TFEU and of Article 7 of the Charter of Fundamental Rights of the European Union ('the Charter').
- 2 The request has been made in proceedings between M.G. Tjebbes, G.J.M. Koopman, E. Saleh Abady and L. Duboux, on the one hand, and the Minister van Buitenlandse Zaken (Minister for Foreign Affairs, Netherlands) ('the Minister'), on the other hand, concerning the latter's decision not to examine their respective applications for a national passport.

Legal context

International law

The Convention on the Reduction of Statelessness

- 3 The United Nations Convention on the Reduction of Statelessness, which was adopted in New York on 30 August 1961 and entered into force on 13 December 1975 ('the Convention on the Reduction of Statelessness'), became applicable to the Kingdom of the Netherlands as of 11 August 1985. Article 6 of the convention provides:

'If the law of a Contracting State provides for loss of its nationality by a person's spouse or children as a consequence of that person losing or being deprived of that nationality, such loss shall be conditional upon their possession or acquisition of another nationality.'

- 4 Under Article 7(3) to (6) of the convention:

'3. Subject to the provisions of paragraphs 4 and 5 of this Article, a national of a Contracting State shall not lose his nationality, so as to become stateless, on the ground of departure, residence abroad, failure to register or on any similar ground.

4. A naturalised person may lose his nationality on account of residence abroad for a period, not less than seven consecutive years, specified by the law of the Contracting State concerned if he fails to declare to the appropriate authority his intention to retain his nationality.

5. In the case of a national of a Contracting State, born outside its territory, the law of that State may make the retention of its nationality after the expiry of one year from his attaining his majority conditional upon residence at that time in the territory of the State or registration with the appropriate authority.

6. Except in the circumstances mentioned in this Article, a person shall not lose the nationality of a Contracting State, if such loss would render him stateless, notwithstanding that such loss is not expressly prohibited by any other provision of this Convention.'

The Convention on Nationality

5 The European Convention on Nationality, which was adopted on 6 November 1997 within the framework of the Council of Europe and entered into force on 1 March 2000 ('the Convention on Nationality'), became applicable to the Kingdom of the Netherlands as of 1 July 2001. Article 7 of the Convention on Nationality provides:

'1. A State Party may not provide in its internal law for the loss of its nationality *ex lege* or at the initiative of the State Party except in the following cases:

...

(e) lack of a genuine link between the State Party and a national habitually residing abroad;

...

2. A State Party may provide for the loss of its nationality by children whose parents lose that nationality except in cases covered by sub-paragraphs c and d of paragraph 1. However, children shall not lose that nationality if one of their parents retains it.

...'

EU law

6 Article 20 TFEU states:

'1. Citizenship of the Union is hereby established. Every person holding the nationality of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to and not replace national citizenship.

2. Citizens of the Union shall enjoy the rights and be subject to the duties provided for in the Treaties. They shall have, *inter alia*:

(a) the right to move and reside freely within the territory of the Member States;

...

(c) the right to enjoy, in the territory of a third country in which the Member State of which they are nationals is not represented, the protection of the diplomatic and consular authorities of any Member State on the same conditions as the nationals of that State;

...'

7 According to Article 7 of the Charter, everyone has the right to respect for his or her private and family life, home and communications.

8 Article 24(2) of the Charter provides:

'...

2. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration.

...'

Netherlands law

9 Article 6(1)(f) of the Rijkswet op het Nederlandschap (Law on Netherlands Nationality)('Law on Nationality') provides:

'1(f) After making a written declaration to that effect, the following persons shall acquire Netherlands nationality by a confirmation as referred to in paragraph 3: an adult foreign national who has at any time held Netherlands nationality ... and who for a period of no less than one year has a residence permit of indefinite duration and his principal residence in the Netherlands ... unless he has lost his Netherlands nationality pursuant to Article 15(1)(d) or (f).'

10 Paragraph 15 of that law provides:

'1. An adult shall lose his Netherlands nationality:

...

(c) if he also holds a foreign nationality and if, after attaining his majority and while holding both nationalities, he has his principal residence for an uninterrupted period of 10 years outside the Netherlands ... and outside the territories to which the [EU Treaty] applies ...;

...

3. The period referred to in the first paragraph under (c) shall be deemed not to have been interrupted if the person concerned, for a period of less than one year, has his principal residence in the Netherlands ... or in the territories to which the [EU Treaty] applies.

4. The period referred to in the first paragraph under (c) can be interrupted by the issuing of a declaration regarding the possession of Netherlands nationality or a travel document or Netherlands identity card within the meaning of the [Paspoortwet (Law on passports)]. A new period of 10 years shall start to run as from the day of issue.'

11 Under Article 16 of the Law on Nationality:

'1. A minor shall lose his Netherlands nationality:

...

(d) if his father or mother loses his or her Netherlands nationality pursuant to Article 15(1)(b), (c) or (d) ...;

...

2. The loss of Netherlands nationality referred to in the first paragraph shall not occur:

(a) if and as long as one of the parents possesses Netherlands nationality;

...

(e) if the minor is born in the country of his nationality and has his principal place of residence in that country at the time of acquiring that nationality ...;

(f) if the minor has or has had his principal place of residence in the country of his nationality for an uninterrupted period of five years ...;

...'

12 Under Article IV of the Rijkswet tot wijziging Rijkswet op het Nederlandschap (verkrijging, verlening van het Nederlandschap) (Law amending the Law on Netherlands Nationality (acquisition, granting and loss of Netherlands nationality)) of 21 December 2000, the 10-year period referred to in Article 15(1) of the Law on Nationality cannot commence earlier than 1 April 2003.

The dispute in the main proceedings and the question referred for a preliminary ruling

13 Ms Tjebbes was born on 29 August 1984 in Vancouver (Canada) and has, from birth, Netherlands and Canadian nationalities. On 9 May 2003 she was issued a Netherlands passport. The validity of that passport expired on 9 May 2008. On 25 April 2014 Ms Tjebbes submitted a passport application to the Netherlands Consulate in Calgary (Canada).

14 Ms Koopman was born on 23 March 1967 in Hoorn (the Netherlands). On 21 May 1985 she settled in Switzerland and, on 7 April 1988, she married Mr P. Duboux, a Swiss national. As a result of that marriage, Ms Koopman also acquired Swiss nationality. She had a Netherlands passport which was issued to her on 10 July 2000 and was valid until 10 July 2005. On 8 September 2014 Ms Koopman submitted a passport application to the Embassy of the Kingdom of the Netherlands in Bern (Switzerland).

15 Ms Saleh Abady was born on 25 March 1960 in Teheran (Iran). She is an Iranian national by birth. By Royal Decree of 3 September 1999 she also acquired Netherlands nationality. On 6 October 1999, a Netherlands passport, which was valid until 6 October 2004, was issued to her for the last time. On 3 December 2002 her registration with the Personal Records Database was suspended because of her emigration. Since that date Ms Saleh Abady has clearly had her principal residence in Iran without interruption. On 29 October 2014 she submitted a passport application to the Embassy of the Kingdom of the Netherlands in Teheran (Iran).

16 Ms Duboux was born on 13 April 1995 in Lausanne (Switzerland). She acquired Netherlands nationality by birth on account of the dual nationality of her mother, Ms Koopman, as well as Swiss nationality on account of her Swiss father, Mr Duboux. Ms Duboux was never issued a Netherlands passport. As a minor, however, she was entered in her mother's passport, which was issued on 10 July 2000 and was valid until 10 July 2005. On 13 April 2013 Ms Duboux attained her majority. On 8 September 2014, at the same time as her mother, she submitted a passport application to the Embassy of the Kingdom of the Netherlands in Bern (Switzerland).

17 By four decisions of 2 May and 16 September 2014 and of 20 January and 23 February 2015 respectively, the Minister decided not to examine the passport applications submitted by Ms Tjebbes, Ms Koopman, Ms Saleh Abady and Ms Duboux. The Minister found that these persons had lost Netherlands nationality by operation of law pursuant to Article 15(1)(c) and Article 16(1)(d) of the Law on Nationality.

18 Since the complaints lodged against those decisions were rejected by the Minister, the applicants in the main proceedings brought four separate actions before the rechtbank Den Haag (District Court, The Hague, Netherlands). By rulings delivered respectively on 24 April, 16 July and 6 October 2015, the rechtbank Den Haag (District Court, The Hague) declared the actions brought by Ms Tjebbes, Ms Koopman and Ms Saleh Abady to be unfounded. By a ruling of 4 February 2016, however, the court declared the action brought by Ms Duboux to be well founded, and annulled the Minister's decision in response to her complaint whilst maintaining the legal effects of that decision.

19 The applicants in the main proceedings lodged separate appeals against those rulings before the Raad van State (Council of State, Netherlands).

20 According to the Raad van State (Council of State), it is faced with the question whether the loss of Netherlands nationality by operation of law is compatible with EU law and, in particular, with Articles 20 and 21 TFEU, read in the light of the judgment of 2 March 2010, *Rottmann* (C-135/08, EU:C:2010:104). In its view, those articles are applicable to the present case, even though, here, the loss of citizenship of the

Union stems from the loss of the nationality of a Member State by operation of law rather than an express individual decision withdrawing nationality as in the case that gave rise to that judgment.

- 21 The Raad van State (Council of State) asks whether it is possible to examine the conformity of a national rule which prescribes the loss of the nationality of a Member State by operation of law with the principle of proportionality referred to by the Court in paragraph 55 of the judgment mentioned in the previous paragraph, and, if so, how this examination is to be carried out. Although the examination of proportionality as regards the consequences of the loss of Netherlands nationality for the situation of the persons concerned, from the point of view of EU law, may require each individual case to be examined, the Raad van State (Council of State) does not rule out, as the Minister has argued, that this examination of proportionality may be satisfied by the general statutory scheme, namely, in the present case, that provided for by the Law on Nationality.
- 22 The Raad van State (Council of State) is of the opinion that, as regards the situation of adults, there are convincing arguments for finding that Article 15(1)(c) of the Law on Nationality is consistent with the principle of proportionality and compatible with Articles 20 and 21 TFEU. The Raad van State (Council of State) points out, in that respect, that Article 15(1)(c) of the Law on Nationality lays down a significant period of 10 years of residence abroad before Netherlands nationality is lost, which would give grounds for assuming that the persons concerned have no, or only a very weak, link with the Kingdom of the Netherlands and, accordingly, with the European Union. In addition, in its opinion, it is relatively simple to retain Netherlands nationality, since the 10-year period is interrupted if, during the course of that period and for no less than one year without interruption, the person concerned resides in the Netherlands or the European Union, or obtains a declaration regarding the possession of Netherlands nationality or a travel document or a Netherlands identity card within the meaning of the Law on Passports. Furthermore, the referring court states that any person who qualifies for an ‘option’ for the purposes of Article 6 of the Law on Nationality is entitled to acquire by a confirmation the Netherlands nationality that he or she previously held.
- 23 Moreover, the Raad van State (Council of State) expresses the preliminary view that the Netherlands legislature did not act arbitrarily in adopting Article 15(1)(c) of the Law on Nationality and that, accordingly, it did not infringe Article 7 of the Charter on the right to respect for private and family life.
- 24 However, according to the Raad van State (Council of State), since it cannot be ruled out that examining the proportionality of the consequences of the loss of Netherlands nationality for the situation of the persons concerned may require each individual case to be examined, it is not clear whether or not a general statutory scheme such as that prescribed by the Law on Nationality is consistent with Articles 20 and 21 TFEU.
- 25 As regards the situation of minors, the referring court states that Article 16(1)(d) of the Law on Nationality shows the importance that the national legislature has attached to unity of nationality within the family. In that context, the referring court asks whether it is proportionate to deprive a minor of citizenship of the Union and the rights attaching thereto purely for the sake of preserving unity of nationality within the family, and the extent to which the child’s best interests within the meaning of Article 24(2) of the Charter are set to play a role in that regard. The referring court notes that a child who is a minor has little influence on the retention of his or her Netherlands nationality, and that the possibilities for interrupting certain periods of time or obtaining, for instance, a declaration regarding the possession of Netherlands nationality are not grounds for exception in the case of minors. Consequently, the referring court takes the view that it is not clearly established whether or not Article 16(1)(d) of the Law on Nationality is consistent with the principle of proportionality.
- 26 In those circumstances, the Raad van State (Council of State) decided to stay the proceedings and to refer the following question to the Court of Justice for a preliminary ruling:

‘Must Articles 20 and 21 TFEU, in the light of, *inter alia*, Article 7 of the [Charter], be interpreted — in view of the absence of an individual assessment, based on the principle of proportionality, with regard to

the consequences of the loss of nationality for the situation of the person concerned from the point of view of EU law — as precluding legislation such as that in issue in the main proceedings, which provides:

- (1) that an adult, who is also a national of a third country, loses, by operation of law, the nationality of his or her Member State, and consequently loses citizenship of the Union, on the ground that, for an uninterrupted period of 10 years, that person had his or her principal residence abroad and outside the [Union], although there are possibilities for interrupting that 10-year period;
- (2) that under certain circumstances a minor loses, by operation of law, the nationality of his or her Member State, and consequently loses citizenship of the Union, as a consequence of the loss of the nationality of his or her parent, as referred to under (1) ...?’

Consideration of the question referred

- 27 By its question, the referring court asks, in essence, whether Articles 20 and 21 TFEU, read in the light of Article 7 of the Charter, must be interpreted as precluding legislation of a Member State, such as that at issue in the main proceedings, which provides under certain conditions for the loss of the nationality of that Member State by operation of law, which entails, in the case of persons who are not also nationals of another Member State, the loss of their citizenship of the Union and the rights attaching thereto without an individual examination, based on the principle of proportionality, of the consequences of that loss for the situation of those persons from the point of view of EU law.
- 28 From the outset it must be noted that, in so far as it is not apparent from the order for reference that the applicants in the main proceedings have exercised their right to free movement within the European Union, there is no need to answer the question with regard to Article 21 TFEU.
- 29 That clarification having been made, it should be noted that the Law on Nationality provides, in Article 15(1)(c) thereof, that an adult loses his Netherlands nationality if he also holds a foreign nationality and if, after attaining his majority and while holding both nationalities, he has his principal residence for an uninterrupted period of 10 years outside the Netherlands and outside the territories to which the EU Treaty applies. Article 16(1)(d) of that law provides that a minor loses, in principle, Netherlands nationality if his father or mother has lost his or her Netherlands nationality pursuant, inter alia, to Article 15(1)(c) of that law.
- 30 In that respect, it is important to bear in mind that the Court has already held that, while it is for each Member State, having due regard to international law, to lay down the conditions for acquisition and loss of nationality, the fact that a matter falls within the competence of the Member States does not alter the fact that, in situations covered by EU law, the national rules concerned must have due regard to the latter (judgment of 2 March 2010, *Rottmann*, C-135/08, EU:C:2010:104, paragraphs 39 and 41 and the case-law cited).
- 31 Article 20 TFEU confers on every individual who is a national of a Member State citizenship of the Union, which, according to settled case-law, is intended to be the fundamental status of nationals of the Member States (judgment of 8 May 2018, *K.A. and Others (Family reunification in Belgium)*, C-82/16, EU:C:2018:308, paragraph 47 and the case-law cited).
- 32 Accordingly, the situation of citizens of the Union 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. Thus, the Member States must, when exercising their powers in the sphere of nationality, have due regard to EU law (judgment of 2 March 2010, *Rottmann*, C-135/08, EU:C:2010:104, paragraphs 42 and 45).

- 33 In that context, the Court has already held that it is legitimate for a Member State to wish to protect the special relationship of solidarity and good faith between it and its nationals and also the reciprocity of rights and duties, which form the bedrock of the bond of nationality (judgment of 2 March 2010, *Rottmann*, C-135/08, EU:C:2010:104, paragraph 51).
- 34 In this instance, it is apparent from the order for reference that, by adopting Article 15(1)(c) of the Law on Nationality, the Netherlands legislature sought to introduce a system to avoid, inter alia, the undesirable consequences of one person having multiple nationalities. The Netherlands Government also notes in its observations to the Court that one of the objectives of the Law on Nationality is to preclude persons from obtaining or retaining Netherlands nationality where they do not, or no longer have, any link with the Kingdom of the Netherlands. In its view, Article 16(1)(d) of that law is intended, in turn, to restore unity of nationality within the family.
- 35 As mentioned by the Advocate General in points 53 and 55 of his Opinion, when exercising its competence to lay down the conditions for acquisition and loss of nationality, it is legitimate for a Member State to take the view that nationality is the expression of a genuine link between it and its nationals, and therefore to prescribe that the absence, or the loss, of any such genuine link entails the loss of nationality. It is also legitimate for a Member State to wish to protect the unity of nationality within the same family.
- 36 In that regard, a criterion such as that laid down in Article 15(1)(c) of the Law on Nationality, which is based on the habitual residence of nationals of the Kingdom of the Netherlands, for an uninterrupted period of 10 years, outside that Member State and outside the territories to which the EU Treaty applies, may be regarded as an indication that there is no such link. Similarly, as stated by the Netherlands Government with regard to Article 16(1)(d) of that law, the lack of a genuine link between the parents of a child who is a minor and the Kingdom of the Netherlands can be understood, in principle, as a lack of a genuine link between the child and that Member State.
- 37 The legitimacy, in principle, of the loss of the nationality of a Member State in those situations is indeed supported by the provisions of Article 6 and Article 7(3) to (6) of the Convention on the Reduction of Statelessness which provide that, in similar situations, a person may lose the nationality of a Contracting State in so far as he does not become stateless. The risk of becoming stateless is precluded, in the present case, by the national provisions at issue in the main proceedings, given that their application is conditional on the possession by the person concerned of the nationality of another State in addition to Netherlands nationality. Similarly, Article 7(1)(e) and (2) of the Convention on Nationality provides that a State Party may provide for the loss of its nationality, inter alia, in the case of an adult, where there is no genuine link between that State and a national habitually residing abroad and, in the case of a minor, for children whose parents lose the nationality of that State.
- 38 That legitimacy is further supported by the fact that, as noted by the referring court, when the person concerned requests, within the 10-year period laid down in Article 15(1)(c) of the Law on Nationality, the issuing of a declaration regarding the possession of Netherlands nationality, a travel document or a Netherlands identity card within the meaning of the Law on Passports, the Netherlands legislature considers that that person thus intends to retain a genuine link with the Kingdom of the Netherlands, as shown by the fact that under Article 15(4) of the Law on Nationality the issuing of one of those documents interrupts that period of time and therefore precludes the loss of Netherlands nationality.
- 39 Under those circumstances, EU law does not preclude, in principle, that in situations such as those referred to in Article 15(1)(c) of the Law on Nationality and Article 16(1)(d) thereof, a Member State prescribes for reasons of public interest the loss of its nationality, even if that loss will entail, for the person concerned, the loss of his or her citizenship of the Union.
- 40 However, it is for the competent national authorities and the national courts to determine whether the loss of the nationality of the Member State concerned, when it entails the loss of citizenship of the Union and the rights attaching thereto, has due regard to the principle of proportionality so far as concerns the consequences of that loss for the situation of the person concerned and, if relevant, for that of the members

of his or her family, from the point of view of EU law (see, to that effect, judgment of 2 March 2010, *Rottmann*, C-135/08, EU:C:2010:104, paragraphs 55 and 56).

41 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.

42 It follows that, in a situation such as that at issue in the main proceedings, in which the loss of the nationality of a Member State arises by operation of law and entails the loss of citizenship of the Union, 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 *ex tunc* in the context of an application by that person for a travel document or any other document showing his or her nationality.

43 In fact, the referring court states, in essence, that under national law both the Minister and the competent courts are required to examine the possibility of retaining Netherlands nationality in the procedure governing applications for passport renewal, by carrying out a full assessment based on the principle of proportionality enshrined in EU law.

44 That examination requires an individual assessment of the situation of the person concerned and that of his or her family in order to determine whether the consequences of losing the nationality of the Member State concerned, when it entails the loss of his or her citizenship of the Union, might, with regard to the objective pursued by the national legislature, disproportionately affect the normal development of his or her family and professional life from the point of view of EU law. Those consequences cannot be hypothetical or merely a possibility.

45 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 fundamental rights guaranteed by the Charter, the observance of which the Court ensures, and specifically the right to respect for family life as stated in Article 7 of the Charter, that article requiring to be read in conjunction with the obligation to take into consideration the best interests of the child, recognised in Article 24(2) of the Charter (judgment of 10 May 2017, *Chavez-Vilchez and Others*, C-133/15, EU:C:2017:354, paragraph 70).

46 As regards the circumstances of the individual situation of the person concerned, which are likely to be relevant in the assessment that the competent national authorities and national courts are to carry out in the present case, it must be mentioned, in particular, that following the loss, by operation of law, of Netherlands nationality and of citizenship of the Union the person concerned would be exposed to limitations when exercising his or her right to move and reside freely within 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 (i) the fact that the person concerned might not have been able to renounce the nationality of a third country and that person thus falls within the scope of Article 15(1)(c) of the Law on Nationality and (ii) the serious risk, to which the person concerned would be exposed, that his or her safety or freedom to come and go would substantially deteriorate because of the impossibility for that person to enjoy consular protection under Article 20(2)(c) TFEU in the territory of the third country in which that person resides.

47 As for minors, the competent administrative and judicial authorities must also take into account, in the context of their individual examination, possible circumstances from which it is apparent that the loss of Netherlands nationality by the minor concerned, which the national legislature has attached to the loss of Netherlands nationality by one of his or her parents in order to preserve unity of nationality within the family, fails to meet the child's best interests as enshrined in Article 24 of the Charter because of the consequences of that loss for the minor from the point of view of EU law.

48 In the light of the foregoing considerations, the answer to the question referred is that Article 20 TFEU, read in the light of Articles 7 and 24 of the Charter, must be interpreted as not precluding legislation of a Member State such as that at issue in the main proceedings, which provides under certain conditions for the loss, by operation of law, of the nationality of that Member State, which entails, in the case of persons who are not also nationals of another Member State, the loss of their citizenship of the Union and the rights attaching thereto, in so far as the competent national authorities, including national courts where appropriate, are in a position to examine, as an ancillary issue, the consequences of the loss of that nationality and, where appropriate, to have the persons concerned recover their nationality *ex tunc* in the context of an application by those persons for a travel document or any other document showing their nationality. In the context of that examination, the authorities and the courts must determine whether the loss of the nationality of the Member State concerned, when it entails the loss of citizenship of the Union and the rights attaching thereto, has due regard to the principle of proportionality so far as concerns the consequences of that loss for the situation of each person concerned and, if relevant, for that of the members of their family, from the point of view of EU law.

49 In the light of the answer to the question referred, there is no need to rule on the request put forward at the hearing by the Netherlands Government that the Court should limit the temporal effects of the judgment to be delivered in the event that it were to find the Netherlands legislation to be incompatible with Article 20 TFEU.

Costs

50 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Grand Chamber) hereby rules:

Article 20 TFEU, read in the light of Articles 7 and 24 of the Charter of Fundamental Rights of the European Union, must be interpreted as not precluding legislation of a Member State such as that at issue in the main proceedings, which provides under certain conditions for the loss, by operation of law, of the nationality of that Member State, which entails, in the case of persons who are not also nationals of another Member State, the loss of their citizenship of the Union and the rights attaching thereto, in so far as the competent national authorities, including national courts where appropriate, are in a position to examine, as an ancillary issue, the consequences of the loss of that nationality and, where appropriate, to have the persons concerned recover their nationality *ex tunc* in the context of an application by those persons for a travel document or any other document showing their nationality. In the context of that examination, the authorities and the courts must determine whether the loss of the nationality of the Member State concerned, when it entails the loss of citizenship of the Union and the rights attaching thereto, has due regard to the principle of proportionality so far as concerns the consequences of that loss for the situation of each person concerned and, if relevant, for that of the members of their family, from the point of view of EU law.

[Signatures]

* Language of the case: Dutch.