



[ECtHR - Ramadan v Malta](#)

An Egyptian national, who resided in Malta and acquired Maltese nationality, was granted authorisation to renounce his Egyptian nationality as he could not hold dual nationality while in Malta. He was deprived of his Maltese nationality years later, following a decision that found that he had obtained his Maltese nationality from his first marriage through fraud. The Court found that there was no violation of Article 8 and held that the decision to deprive the applicant of his Maltese nationality did not adversely affect him.

Case status: Decided

Case number: Application no. 76136/12

Citation: Ramadan v Malta, judgment, application no. 76136/12, 21 June 2016.

Date of decision: 21/06/2016

State: Malta

Court / UN Treaty Body: European Court of Human Rights

Language(s) the decision is available in: English, French

Applicant's country of birth: Egypt

Applicant's country of residence: Malta

Legal instruments: 1997 European Convention on Nationality, European Convention on Human Rights (ECHR), European Union law

Key aspects: Acquisition of nationality, Deprivation of nationality, Respect for private and family life, Statelessness determination

Relevant Legislative Provisions:

Domestic: Article 44 of the Constitution of Malta, The Maltese Citizenship Act, Chapter 188 of the Laws of Malta, Article 14 of the Immigration Act, Chapter 217 of the Laws of Malta, Immigration Regulations: Subsidiary Legislation 217.04; Regulations 5, 6, 8, 9 and 10; and Regulation 12(3)

Council of Europe: Article 8 ECHR, 1997 European Convention on Nationality (signed but not ratified by Malta), Recommendation No. R (99) 18 of the Committee of Ministers to member States on the avoidance and reduction of statelessness

European Union: Article 20 of the Treaty on the Functioning of the European Union (TFEU)

Facts

The applicant was an Egyptian citizen who arrived in Malta on a tourist visa, which he overstayed after remaining for more than 3 months. He sought exempt person status after marrying his first wife, a Maltese citizen, which was granted by the State. Since dual citizenship with Malta and Egypt was not possible at the time of his application, he was granted his request to renounce Egyptian citizenship and have it withdrawn. After a period of marital and mental health problems, his first marriage was annulled. The applicant did not inform state authorities of this change in his marital status.

The applicant remained in Malta and married his second wife, a Russian citizen. When seeking information about exempt person status for his second wife, he submitted a form to state authorities, demonstrating the annulment of his first marriage. It was at this point that the State first learned of the applicant's marital and citizenship status. His second wife was granted exempt status, which was granted due to the applicant's citizenship status.

Two years later, the applicant was issued a notification of an order depriving him of his Maltese citizenship on grounds that his first marriage constituted fraud. A state commission issued a recommendation for deprivation of his citizenship after proceedings. This recommendation would require the return of the applicant's Maltese citizenship documentation and passport. No state action was taken in regards to this decision, however.

Following proceedings in the domestic court, the applicant brought a case against the State, alleging a violation of his Article 8 rights. The government objected that the applicant's petition to the Court was inadmissible on two grounds: 1) the applicant did not qualify as a "victim"; and 2) the applicant was not placed at a significant disadvantage.

Legal arguments by the applicant

Admissibility

The applicant argued that the revocation of his citizenship undermined his ability to

reside in Malta. The threat of a deportation order was imminent and thus made him a victim. In addition, the State's actions would unjustly and negatively impact his family life.

Merits

The applicant argued that Malta violated his rights under Article 8 when the State made the decision to deprive him of his Maltese citizenship unlawfully, "interfered with his right to private and family life and exposed him to the risk of being separated from his family," failed to accord with the "relevant procedural safeguards", failed to fulfil its positive obligation to protect his rights, and rendered the applicant stateless. § 49. He further argued that "[d]epriving a person of citizenship was more sensitive than restricting eligibility for citizenship, and it could not be left to a State's discretion. Furthermore, any such decision would have to be accompanied by appropriate safeguards and an opportunity for the individual to defend himself." § 67. The applicant contended that citizenship is a gateway to certain rights and that permits or other temporary solutions would not resolve his issue of statelessness. He further argued that here, the order was not done in accordance with the law and that the State failed to protect him from statelessness.

Legal arguments by the opposing party

Admissibility

Victim Status

The government contended that the applicant could not claim to be a victim within the meaning of Article 34 since no removal order was in place nor about to be implemented by the State. They further argued that a deprivation of citizenship was not equivalent to deportation; therefore, the applicant was not a victim.

Significant Disadvantage

The Government also argued that the applicant did not suffer any significant disadvantage due to the State's actions. This was because he could still live and work in Malta, and he presented no evidence that he could not re-acquire his

Egyptian citizenship.

Merits

The Government argued that “the Convention did not guarantee a right to acquire a particular citizenship and that the issue of whether an applicant had an arguable right to acquire the citizenship of a State must in principle be resolved by reference to the domestic law of that State”. § 75. The State’s actions were in accordance with the domestic law and were not illegitimate, as the State thought the applicant’s first marriage could have been fraud. The State argued that their actions were also not discriminatory, as they followed the relevant procedural steps accordingly with the purpose of resolving a public issue.

It was further argued that the decision at issue did not adversely affect the applicant, as he was able to still carry out employment with licenses and he continued to have access to his Maltese passport. The Government contended that “[d]istinguishing between a removal order and deprivation of citizenship, in the absence of any adverse effects on the applicant, . . . the Maltese authorities did not have a positive obligation to regularise the applicant’s status when revoking his Maltese citizenship”. § 83.

Decision & Reasoning

Admissibility

The Court accepted the government’s first objection but rejected their second objection. The applicant was not a victim due to a violation of Article 8 in regards to deportation, but he was a victim regarding the revocation of his Maltese citizenship.

Victim Status

The Court held that “an applicant cannot claim to be the ‘victim’ of a deportation measure if the measure is not enforceable”, which applies “in cases where execution of the deportation order has been stayed indefinitely or otherwise deprived of legal effect, and where any decision by the authorities to proceed with deportation can be appealed against before the relevant courts”. § 53. Since no interim orders were in place and the applicant could still appeal, the Court found that “there is no indication that any eventual removal would be executed in a

perfunctory manner and with such haste that it would have the effect of rendering the available remedies ineffective in practice and therefore inaccessible". § 55. Thus, the Court held the applicant was not a victim in this regard.

The Court also held that, since the applicant was stateless, "it cannot be said that he is under a threat of expulsion", given the unlikelihood of his return to Egypt even if so, the amount of time during which he'd be able to appeal. § 56.

Significant Disadvantage

The Court held that "although the right to citizenship is not as such guaranteed by the Convention or its Protocols, it cannot be ruled out that an arbitrary denial of citizenship might in certain circumstances raise an issue under Article 8 of the Convention because of the impact of such a denial on the private life of the individual". § 62.

Merits

The Court held that "the loss of citizenship already acquired . . . can have the same (and possibly a bigger) impact on a person's private and family life. It follows that there is no reason to distinguish between the two situations and the same test should therefore apply. Thus, an arbitrary revocation of citizenship might in certain circumstances raise an issue under Article 8 of the Convention because of its impact on the private life of the individual". § 85. The Court found that the decision here was done in accordance with the law and adhered to procedural safeguards, as the applicant was notified and had opportunity to seek a remedy. § 87. Though the Government's actions could be seen as delayed, any delay in time did not adversely affect the applicant. § 88. Therefore, the State's decision was not arbitrary.

The Court also found that the applicant was not adversely affected by the State's decision. It held that neither Article 8 nor any other provision of the Convention can be construed as guaranteeing the right to a particular type of residence permit. § 91. Other remedies or opportunities for citizenship status were found to be available to the applicant, which he failed to try to pursue. § 91.

Furthermore, the Court found that the applicant did not provide official documentation showing renunciation of his Egyptian citizenship, nor did he present any issues with re-acquiring his Egyptian citizenship. Therefore, the applicant was found to, in effect, not be stateless: "the fact that a foreigner has renounced his or her nationality of a State does not mean in principle that another State has the

obligation to regularise his or her stay in the country". § 92.

Decision documents

[CASE%20OF%20RAMADAN%20v.%20MALTA_0.pdf](#)

[AFFAIRE%20RAMADAN%20c.%20MALTE%20%5BExtraits%5D.pdf](#)

Outcome

Admissibility

The Court found that the application regarding the revocation of the applicant's citizenship was admissible, but the remainder of the claims were not.

Merits

The Court found that there was no violation of Article 8. Since the applicant was found not to be at risk of deportation, the Court held that the State had no positive obligation regarding the applicant's rights under Article 8 as it arose in this case. § 94.

Dissents

Several of the justices dissented, writing separate opinions, from the majority's decision.

Caselaw cited

Rottmann v. Freistaat Bayern, 2 March 2010, CJEU, C-135/08 [2010] ECR II-05089

Gerardo Ruiz Zambrano v. Office national de l'emploi (ONEm), 8 March 2011, CJEU, C-34/09 [2011] ECR I-01177

Nsona v. the Netherlands, 28 November 1996, § 106, Reports of Judgments and Decisions 1996-V

Brumărescu v. Romania [GC], no. 28342/95, § 50, ECHR 1999-VII

Norris v. Ireland, 26 October 1988, §§ 30-31, Series A no. 142

Otto-Preminger-Institut v. Austria, 20 September 1994, § 39, Series A no. 295-A

Sisojeva and Others v. Latvia (striking out) [GC], no. 60654/00, § 92, ECHR 2007-I

Vijayanathan and Pusparajah v. France (27 August 1992, § 46, Series A no. 241-B)

Pellumbi v. France (dec.), no. 65730/01, 18 January 2005

Etanji v. France (dec.), no. 60411/00, 1 March 2005

Kalantari v. Germany (striking out), no. 51342/99, §§ 55-56, ECHR 2001-X

Mehemi v. France (no. 2), no. 53470/99, § 54, ECHR 2003-IV

Andric v. Sweden (dec.), no. 45917/99, 23 February 1999

Benamar and Others v. France (dec.), no. 42216/98, 14 November 2000

Djemailji v. Switzerland (dec.), no. 13531/03, 18 January 2005

Yildiz v. Germany (dec.), no. 40932/02, 13 October 2005

De Souza Ribeiro v. France [GC], no. 22689/07, § 83, ECHR 2012

Okonkwo v. Austria (dec.), no. 35117/97, 22 May 2001

Korolev v. Russia (dec.), no. 25551/05, ECHR 2010

Adrian Mihai Ionescu v. Romania (dec.) no. 36659/04, § 34, 1 June 2010

Rinck v. France (dec.), no. 18774/09, 19 October 2010

Kiوسي v. Greece (dec.), no. 52036/09, 20 September 2011

Karassev v. Finland (dec.), no. 31414/96, ECHR 1999-II

Slivenko v. Latvia (dec.) [GC], no. 48321/99, § 77, ECHR 2002-II

Savoia and Bounegru v. Italy (dec.), no. 8407/05, 11 July 2006

Genovese v. Malta, no. 53124/09, § 30, 11 October 2011

X v. Austria, no. 5212/71, Commission decision of 5 October 1972

Nunez v. Norway, no. 55597/09, § 82, 28 June 2011

Borisov v. Lithuania, no. 9958/04, § 112, 14 June 2011

Kaftailova v. Latvia (striking out) [GC], no. 59643/00, § 53, 7 December 2007

Shevanova v. Latvia (striking out) [GC], no. 58822/00, § 49, 7 December 2007

Sisojeva and Others, cited above, § 91

Aristimuño Mendizabal v. France, no. 51431/99, § 66, 17 January 2006

Dremlyuga v. Latvia (dec.), no. 66729/01, 29 April 2003

Gribenko v. Latvia (dec.), no. 76878/01, 15 May 2003

Dragan and Others v. Germany (dec.), no. 33743/03, 7 October 2004