



[Netherlands - Council of State \(Raad van State\), ECLI:NL:RBDHA:2020:5783](#)

The applicant is a dual Moroccan-Dutch nationality, whose Dutch nationality was withdrawn as a consequence of his involvement in a terrorist organisation. The applicant argued that the legal ground for withdrawing nationality only affects dual nationals, who are almost always Dutch nationals with a non-Western background, and thus constitutes discrimination prohibited by the ECHR. The Court ruled that prevention of statelessness is a sufficient and objective justification of this distinction, and the distinction is therefore justified.

Case name (in original language) : ECLI:NL:RBDHA:2020:5783

Case status: Decided

Case number: ECLI:NL:RBDHA:2020:5783

Citation:

<https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBDHA:2020:5783>

Date of decision: 14/04/2020

State: Netherlands

Court / UN Treaty Body: Council of State of the Netherlands (Raad van State)

Language(s) the decision is available in: Dutch

Applicant's country of birth: Unknown

Applicant's country of residence: Netherlands

Legal instruments: 1961 Statelessness Convention, 1997 European Convention on Nationality, European Convention on Human Rights (ECHR), European Union law

Key aspects: Deprivation of nationality, Discrimination

Relevant Legislative Provisions:

Articles 8 and 14 of the ECHR

Article 7(1)(d) of the European Convention on Nationality

Facts

The applicant was born with a Moroccan nationality, and has also acquired Dutch nationality in 1995 as a result of recognition of paternity. In 2016 the applicant was deregistered from the municipal records due to departure abroad. On 4 April 2018 he has been sentenced to 6 years in prison for having committed a terrorist act, where it was proven that between active with ISIS between 2013 and 2017. In 2019 the authorities have withdrawn the Dutch nationality of the applicant and declared him "undesirable" in the interests of national security and international relations of the Netherlands.

Legal arguments by the applicant

The applicant argued, among others, that the withdrawal of citizenship violates the non-discrimination principle on the basis of him having dual nationality. Individuals with one nationality are not subjected to withdrawals of nationality, as that is prohibited by norms on statelessness prevention. This results in almost only individuals with non-Western background being affected by nationality deprivation measures. He also argued that his dual nationality is not his fault, as it is impossible to renounce Moroccan nationality.

Decision & Reasoning

Concerning the issue of discrimination that results from norms on prevention of statelessness, the Court reasoned as follows:

"The claim that (almost) only Dutch nationals with a non-Western background are affected by the measure, and that there is unequal treatment within the meaning of Articles 8 and 14 of the ECHR, is unsuccessful. Insofar that this effect is caused by the fact that only the Dutch nationality of those multiple nationalities can only be revoked, and that of Dutch nationals with a single nationality cannot, in order to prevent statelessness, the court considers this distinction to be objectively justified for following reasons:

It follows from Article 7(1)(d) of the European Convention on Nationality (ECN) that withdrawal of nationality is possible in cases of conduct that seriously harms the essential interests of the State. In the opinion of this Court, affiliation with a listed terrorist organisation that poses a threat to national security should be qualified as conduct that seriously harms the essential interests of the State. From a European law perspective, withdrawal of nationality was and is possible under such

circumstances. At the same time, the ECN also imposes a core obligation to avoid statelessness. Not withdrawing Dutch nationality if this leads to statelessness is one of the core obligations to which the Netherlands has also committed itself in the context of avoiding statelessness. The present regulation is therefore in line with the ECN, and the alleged indirect distinction is therefore objectively justified because protection against statelessness is the reason for revoking Dutch citizenship in one case and not in the other. In other words, the indirect distinction is therefore inherent in protection against statelessness."

"In addition, the court and the authorities are of the opinion that the fact that the applicant cannot renounce the Moroccan nationality is of no or of insufficient significance in this context. The fact remains that the applicant does not become stateless as the result of withdrawal of his Dutch citizenship. The fact that the applicant becomes stateless if Morocco decides to withdraw the applicant's Moroccan nationality is such an uncertain future event that the authorities do not need to take it into account."

"The court also shares the authorities' position that the Convention for the Reduction of Statelessness of 30 August 1961 [...] does not prevent this case of withdrawal of nationality, that it has been established that the withdrawal cannot lead to statelessness. This Convention only prohibits the deprivation of nationality if it leads to statelessness. The fact that the Netherlands did not make a reservation at the time as referred to in Article 8, paragraph 3, of that treaty has no significance here, that is without mentioning that such a reservation could only have had effect on national regulations that existed at that time."

"As the Court has considered above, the ground for withdrawal of nationality [on the grounds of national security] applies in principle to anyone who holds Dutch nationality. The obligation to prevent statelessness rules out the withdrawal of Dutch nationality from individuals who only have Dutch nationality, and that is a sufficient justification for the alleged indirect distinction."

Decision documents

[RvS_14Apr2020.pdf](#)

Outcome

The Court upholds the administrative decision to withdraw Dutch nationality from the applicant.