

Netherlands - Council of State (Raad van State), ECLI:NL:RVS:2016:735

The applicant naturalised in the Netherlands in 2003, but the naturalisation was withdrawn in 2013 when the authorities found out she had a criminal conviction in Belgium in 2000 that she failed to mention in her naturalisation application. The applicant argued that the decision depriving her of her Dutch nationality is disproportionate, among others in light of EU law and Rottmann judgment, in particular due to her becoming stateless as a result, and the difficulties she may face re-acquiring her original Ghanaian nationality. The Court rejected the appeal and upheld the decision denaturalising the applicant.

Case name (in original language) : ECLI:NL:RVS:2016:735

Case status: Decided

Case number: ECLI:NL:RVS:2016:735

Citation:

<https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RVS:2016:735>

Date of decision: 16/03/2016

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: European Union law

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

Facts

The applicant naturalised in the Netherlands in 2003, but her nationality was withdrawn again in 2013 because on her naturalisation application she failed to mention that in 2000 she was convicted to seven months prison sentence and a fine for selling drugs. If the applicant had mentioned this conviction, she would not have

qualified for naturalisation.

Legal arguments by the applicant

The applicant relies on the Rottmann judgment, stating that since with her Dutch nationality she also loses her EU citizenship, and therefore the EU proportionality test ought to be applied to her and her children's situation, which is more far-reaching than the national test of weighing interests. She in particular argued that the consequences would be heavy for her, as she lost her Ghanaian nationality and will become stateless as a result. She moreover argued that the decision is disproportionate considering this was her only criminal offence, and ten years have passed since she has been naturalised.

Decision & Reasoning

The Court reasoned as follows:

"3. The applicant has argued that the withdrawal of her Dutch nationality is not justified because of the consequences related to loss of EU citizenship rights. [She argued that she] did not deliberately conceal the offence referred to [above]. She did not specify the offence on the application, because she was under the impression that offences committed outside the Netherlands were not relevant to the naturalization procedure. Furthermore, she did not fully understand the questionnaire because she had insufficient command of the Dutch language. The criminal conviction does not constitute a permanent obstacle to naturalization as a Dutch citizen. After the rehabilitation period, she would be able to naturalize without any problems. She has been convicted only once. The loss of Dutch citizenship results in statelessness. She has not been granted some additional time to attempt to regain her original Ghanaian nationality. The residence rights of her children depend on her nationality. Due to the withdrawal of her Dutch nationality her children will lose their right of residence in Belgium. Moreover, the time between granting and withdrawing her Dutch nationality was ten years, as the applicant submitted."

[..]

"The authorities rightly took the position that the applicant has not has not demonstrated that she cannot regain Ghanaian nationality and will therefore become stateless. The applicant has not yet taken any concrete steps to regain that nationality. Insofar as the applicant has stated that she needs a birth certificate to

submit an application, and that it is difficult for her to obtain, the authorities rightly considered that this should be for her own responsibly, that is without even considering that the applicant has not substantiated this assertion."

Decision documents

[RvS_16Mar2016.pdf](#)

Outcome

The court upheld the administrative decision withdrawing naturalisation of the applicant, leaving her stateless as a result.