



Press and Information

Court of Justice of the European Union

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Judgment in Case C-135/08
Janko Rottmann v Freistaat Bayern

Withdrawal of naturalisation obtained by deception may lead to statelessness and therefore to the loss of citizenship of the Union on condition that this withdrawal observes the principle of proportionality

The Court of Justice has today confirmed that, in exercising its powers in the sphere of nationality, a Member State of the European Union may withdraw its nationality, granted by way of naturalisation, from a citizen of the Union, when that person has obtained it by deception. That is so, even if as a consequence of that withdrawal the person concerned loses his citizenship of the Union because he no longer possesses the nationality of a Member State. In such a case, however, the withdrawal decision must observe the principle of proportionality.

The Court, therefore, upholds the powers of the Member States to lay down the conditions for the acquisition and loss of nationality, while pointing out that the Member States must, in exercising their powers, have due regard to European Union law. In particular, it has to be ascertained whether the withdrawal of naturalisation and, therefore, the loss of the rights enjoyed by every citizen of the Union – which include the right to rely on the prohibition of all discrimination on grounds of nationality – are justified and proportionate in relation to the gravity of the offence committed by that person, to the lapse of time between the naturalisation decision and the withdrawal decision and to whether it is possible for that person to recover his original nationality. When nationality has been acquired by deception, EU law does not require a Member State to refrain from withdrawing naturalisation merely because the person concerned has not recovered the nationality of his Member State of origin. It is, nevertheless, for the national court to determine whether, before such a decision withdrawing naturalisation takes effect, having regard to all the relevant circumstances, observance of the principle of proportionality requires the person concerned to be afforded a reasonable period of time in order to try to recover the nationality of his Member State of origin.

By this judgment the Court has answered a question referred by the Bundesverwaltungsgericht (German federal administrative court). The latter has to decide the case of Janko Rottmann, an Austrian national by birth who was naturalised in Germany. The Land of Bavaria subsequently decided to withdraw Mr Rottmann's naturalisation with retroactive effect on the grounds that he had failed to disclose the fact that he had been the subject of judicial investigation in Austria and that he had, in consequence, obtained German nationality by deception. In accordance with Austrian law, the naturalisation in Germany had the effect of causing him to lose his Austrian nationality, and the withdrawal of his naturalisation in Germany did not have the effect of him automatically regaining his Austrian nationality.

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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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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