



**C-135/08 Janko Rottmann v Freistaat Bayern, judgment of 2 March 2010**

**The Court of Justice asserts the relevance of European Union law, and in particular the status conferred on nationals of the Member States by the rules on citizenship of the Union, as a parameter for legitimacy of the nationality withdrawal decisions taken by the authorities of the Member States.**

Mr Rottmann, an Austrian national by birth, acquired German nationality by naturalisation. However, the Land of Bavaria decided to withdraw this naturalisation with retroactive effect on the grounds that it was obtained fraudulently, since Mr Rottmann had not disclosed the fact that he was the subject of judicial investigation in Austria. According to Austrian law, Mr Rottmann's naturalisation in Germany had the effect of loss of his Austrian nationality, without the withdrawal of his naturalisation in Germany implying that he automatically recovers Austrian nationality.

On appeal on a point of law against the judgment issued by the court of second instance in the dispute between Mr Rottmann and the Land of Bavaria, the German Federal Administrative Court referred questions to the Court of Justice on the application of European Union law, in particular to ascertain whether Article 20 of the TFEU allows a decision to withdraw naturalisation to have the effect of the loss of citizenship of the Union for the person concerned who would thereby be rendered stateless.

After recalling that the conditions for the acquisition and loss of nationality come within the competence of each Member State, the Court specifies that the situation of a citizen of the Union becoming stateless as a result of withdrawal of his nationality nevertheless comes within the ambit of European Union law. In fact, the person concerned in this way loses the status of citizen of the Union conferred by Article 20 of the TFEU, which is intended to be the fundamental status of nationals of the Member States.

Consequently, such a decision to withdraw nationality is amenable to judicial review carried out in the light of European Union law. Under this review, it should be checked whether the decision in question is justified by a reason relating to the public interest and whether it respects the principle of proportionality.

In the case in point, the Court considers that withdrawing naturalisation because of deception corresponds to a reason relating to the public interest based on the protection of the special relationship of solidarity and good faith between the Member State concerned and its nationals and also the reciprocity of rights and duties, which form the bedrock of the bond of nationality. That decision is, moreover, in keeping with the general principle of international law.

Concerning the examination of the criterion of proportionality, it is for the national court to taken into consideration the potential consequences that such a decision entails for the person concerned and, if relevant, for his family, with regard to the loss of the rights inherent in citizenship of the Union. In this respect, it is necessary to establish, in particular, whether this decision is justified in relation to the gravity of the offence committed, 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.