

REVOCATION OF NATIONALITY ON SECURITY GROUNDS: HUMAN RIGHTS STANDARDS AND RISKS OF STATELESSNESS

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Abstract

The increasing use of nationality revocation on security grounds through a comparative assessment of international and regional human rights standards is the central issue of this paper. Although states retain broad authority over citizenship matters, this discretion is limited by legal obligations that seek to prevent arbitrariness and safeguard individuals from the risk of statelessness. The analysis focuses on emerging judicial principles, proportionality, procedural fairness, and the prohibition of arbitrariness that shape the legality of deprivation measures. It also highlights the profound human rights implications of loss of nationality, including impacts on legal identity, family life, and access to remedies.

Keywords

Nationality, deprivation of citizenship, national security, statelessness, arbitrariness.

Introduction

Many states have adopted measures such as the deprivation of nationality on security grounds as an alleged response to threats to national security, such as terrorism or violent extremism, although there is no data available proving that nationality deprivation is efficient for this purpose.² Traditionally, the acquisition and loss of nationality were closely related to state sovereignty, but that authority must have its limits. As a preventive measure designed to counter abuse and arbitrariness in nationality matters, substantive and procedural constraints have been introduced by human rights law at international and regional levels. The right to have a nationality is connected to the enjoyment of other rights. Therefore, deprivation of nationality has a direct impact on the capacity to enjoy other rights, leading to the conclusion that deprivation of

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² The Institute on Statelessness and Inclusion, World's Stateless Report 2020, ISBN: 9789082836660, p. 232.

citizenship is deemed incompatible with international human rights law, which is the reason why international law imposes an obligation to avoid statelessness.³

Nationality is more than legal status, it is a foundation for legal identity and further access to rights, also enabling participation in public life. Consequences deriving from deprivation of nationality, whether it is conducted on national security grounds or any other, may lead to severe human rights restrictions, in some cases even to statelessness, its extension to dependents, and in some cases even to expulsion.⁴

A stateless person is the one “who is not considered as a national by any State under the operation of its law”⁵ and this highly vulnerable position often excludes or impedes access to basic rights deriving from citizenship as the right to vote and to participate in collective decision-making,⁶ education, health care, the right to work, to get married, and even the rights related to official burial and a death certificate.⁷ Here is important to make a distinction between nationality and citizenship. Citizenship has a variable scope from one State to another, and concerns rights and obligations at the domestic level, while nationality refers to the international dimension and a broad range of rights belonging to international law.⁸

Supranational judicial institutions are trying to strike a balance between rights belonging to the states and individual rights while evaluating the deprivation of nationality based on the principle of proportionality and potential arbitrary interference with private and family life.

This paper offers a comparative analysis of international legal approaches and assesses their adequacy, contributing to understanding the limits of state sovereignty and the role of human rights law in preventing nationality revocation.

³ Christophe Paulussen and Martin Scheinin, Deprivation of Nationality as a Counter-Terrorism Measure: a Human Rights and Security Perspective, *World's Stateless Report* 2020, p. 223.

⁴ United Nations, Human rights and arbitrary deprivation of nationality, Report of the Secretary-General, 2013, pp. 11-12.

⁵ Article 1, Convention relating to the Status of Stateless Persons, United Nations, 1954.

⁶ Andreas Samartzis, Nationality and Equal Political Rights: A Necessary Link? *European Constitutional Law Review*, 17(4), 636–663, 2021. doi:10.1017/S1574019621000420 p. 636.

⁷ UNHCR, Ending statelessness, retrieved from: <https://www.unhcr.org/what-we-do/protect-human-rights/ending-statelessness/about-statelessness>, accessed 26.11.2025.

⁸ Flavia Zorzi Giustiniani, Deprivation of nationality: In defence of a principled approach, *Questions of International Law, Zoom-in* 31, 2016, p. 6

Nationality, Sovereignty and Human Rights

State sovereignty traditionally has been connected to nationality as a legal bond between an individual and a state and *conditio sine qua non* when it comes to the enjoyment of civil, political, social, and economic rights. Moreover, issues around the conferral and withdrawal of nationality according to classical theorists were considered the domestic jurisdiction of states, empowering their discretion in this legal, but also political and social sphere. On the other hand, the modern understanding of nationality goes beyond states and perceives nationality as a basic human right directly related to the (im)possibility of enjoyment of all other rights. The Universal Declaration of Human Rights reflects a growing consensus that nationality cannot be withdrawn or deprived, stating that "everyone has the right to a nationality" and that "no one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality."⁹ Nationality is increasingly perceived as a sort of status not exclusively regulated by national laws, but by international human rights standards. In this paper, deprivation of nationality will be used to refer "to any loss, withdrawal, or denial of nationality that was not voluntarily requested by the individual."¹⁰

Lately, a trend of state tendencies to expand the legal grounds for deprivation of nationality using argumentation related to national security protection has been noticed. As mentioned before, it has a direct impact on some of the protected rights, such as the right to non-discrimination and the right to private and family life. An example of a controversial amendment passed in the Netherlands in 2017, enabling the Minister of Justice and Security to revoke Dutch citizenship "from a dual national who has joined an organisation that is listed as constituting a threat to national security" while the citizen is abroad and without a criminal conviction, clearly shows how far it can go.¹¹

In cases *El Aroud and Soughir v. Belgium*¹² before the European Court of Human Rights, revocation of citizenship was justified by the Belgian authorities by "the applicants' failure to fulfil

⁹ Article 15, Universal Declaration of Human Rights, United Nations, 1948.

¹⁰ Statelessness index, Deprivation of nationality and the prevention of statelessness in Europe, Thematic Briefing, 2021, p. 3.

¹¹ Paulussen, C., & van Waas, L. (2020, March 23). Blog post: "The counter-productiveness of deprivation of nationality as a national security measure." Asser Institute. <https://www.asser.nl/about-the-asser-institute/news/blog-post-the-counter-productiveness-of-deprivation-of-nationality-as-a-national-security-measure/>

¹² *Affaire El Aroud et B.S. C. Belgique*, requêtes nos 25491/18 et 27629/18

their duties as Belgian citizens“ and the reason was their “involvement in terrorist activities that fundamentally undermined the country’s democratic values.“¹³

This year Hungary passed the Act on the Suspension of Citizenship¹⁴ introducing the possibility of excluding Hungarian citizens from the Hungarian territory if one of the four grounds for suspension is fulfilled: service in the armed forces of or as an official for a foreign state, citizen found guilty by a Hungarian court “of genocide, crimes against humanity, apartheid, treason, insurrection, plotting against the constitutional order, espionage, terrorism, financing terrorism, or other, similarly serious crime”, membership or contact with a terrorist organization, and engagement in activities “offensive to national security, sovereignty or the constitutional order”.¹⁵ According to some authors, potential weaknesses here might be effectiveness of due process guarantees, the proportionality test, and the discretionary powers of the competent minister.¹⁶

International law is trying to articulate limitations that could efficiently prevent arbitrariness and lack of legitimate purpose, but it essentially protects and regulates only some of its procedural aspects, such as acquisition, change, and deprivation of nationality, while national states continue to determine its substantive content.¹⁷ Statelessness Conventions do attempt to make a difference and impact at the same time, imposing obligations on states to avoid nationality deprivation that results in or exacerbates statelessness.

¹³ Reza Khabook, El Aroud and Soughir v. Belgium: Why the ECtHR Should Rethink Citizenship Revocation as a Criminal Punishment?, Strasbourg Observers, 2025, retrieved from: <https://strasbourgobservers.com/2025/04/25/el-aroud-and-soughir-v-belgium-why-the-ecthr-should-rethink-citizenship-revocation-as-a-criminal-punishment/#:~:text=Conclusions,denationalisation%20will%20be%20used%20interchangeably>. assessed: 27.11.2025.

¹⁴ Bill T/11152 as adopted by the Parliament of Hungary on 14 April 2025 The Fifteenth Amendment to the Fundamental Law of Hungary

¹⁵ Péter Szigeti, Statelessness, Human Rights and the Doubling of Criminal Law: Hungary’s New Law on the “Suspension of Citizenship”, [EJIL:Talk! Blog of the European Journal of International Law](https://www.ejiltalk.org/statelessness-human-rights-and-the-doubling-of-criminal-law-hungarys-new-law-on-the-suspension-of-citizenship/), retrieved from: <https://www.ejiltalk.org/statelessness-human-rights-and-the-doubling-of-criminal-law-hungarys-new-law-on-the-suspension-of-citizenship/>, assessed: 28.11.2025.

¹⁶ Kamilla Galicz, The Hungarian Procedure of Citizenship Suspension: The Devil Is in the Details, EUI Global Citizen Observatory, 2025, retrieved from: <https://globalcit.eu/the-hungarian-procedure-of-citizenship-suspension-the-devil-is-in-the-details/>, assessed: 28.11.2025.

¹⁷ Flavia Zorzi Giustiniani, Deprivation of nationality: In defence of a principled approach, Questions of International Law, Zoom-in 31, 2016, p. 11

Finally, the jurisprudence of international courts emphasizes the requirement of individualized assessment, pointing out consequences arising from loss of nationality, and one of them is statelessness as a central issue in debates on deprivation of nationality.

Nevertheless, the revocation of nationality continues to raise concerns when used as a counter-terrorism measure due to its potential effect on individuals, leaving them without the protection of any state. At the same time, domestic legal frameworks, at least many of them, do not provide complete safeguards against statelessness.¹⁸

Human Rights Standards Applicable to Nationality Revocation

For the determination of whether deprivation of nationality is compatible with legal standards and the rule of law in general, *proportionality* is used as the principal analytical test. It consists of complex analysis considering the measure and its objective, is it too severe, who is targeted by this measure, and whether there is a rational link to the objective, and whether less restrictive means are available.¹⁹ This principle serves as a barrier to the use of nationality revocation as a politically instrumentalized response instead of a security measure. It requires individualized assessment of every case in which the state authorities must consider the personal circumstances of the affected individual(s) and the nature of the alleged conduct, which will prevent potential “automatic” and disproportionate revocation of nationality.

The United Nations consider that deprivation of nationality in cases ending with statelessness as arbitrary if there is no legitimate purpose and proportionality, while exceptions must be construed narrowly.²⁰ The fact is that *arbitrariness* occurs in cases of revocation without adequate evidence and due to administrative discretion before judicial review. Also, an issue can arise due to distinctions between citizens, making some of them more vulnerable to deprivation of nationality, which is the reason for heightened scrutiny of such measures and their legitimacy and proportionality.

¹⁸ United Nations, Human rights and arbitrary deprivation of nationality, Report of the Secretary-General, 2013, p. 4.

¹⁹ Jessie Blackbourn, Lawrence McNamara & Toni Brunton-Douglas, ‘Summary Report of Revocation of Citizenship Expert Roundtable, Bingham Centre for the Rule of Law, 2019, p. 8.

²⁰ United Nations, Human rights and arbitrary deprivation of nationality, Report of the Secretary-General, 2013, p. 14.

Procedural safeguards are a significant component in preventing arbitrary nationality deprivation. Affected people must be timely informed of the state's intention to revoke citizenship and to understand it, they must be granted the right to a fair hearing by a court of law or another independent body,²¹ must have access to the evidence supporting the decision, and must have effective legal remedies available.

Lack of procedural guarantees, closed proceedings, or no judicial process at all are still present in some contexts when it comes to the men, women and children deprived of citizenship. These practices, combined with the use of security-based intelligence, raise concerns about the adequacy of due process and human rights protection in general.²²

International norms impose an *obligation to prevent statelessness* if it would render an individual stateless, save for strictly limited exceptions. The reason behind it is in the effects that statelessness can cause – hindrance of fundamental rights and leaving individuals without the protection of any state. States do have an obligation to safeguard against the adverse consequences of the revocation of nationality,²³ and in cases of withdrawal of nationality, there must be a clear basis in law and sufficiently precise.²⁴ The obligation to avoid statelessness is a substantive limit on state power, ensuring that objectives related to national security and combating terrorism do not override human rights and human dignity.

Comparative Judicial Approaches in International Case Law

Deprivation of nationality on security grounds has led to judicial examination of state security concerns and guarantees arising under human rights law at regional and supranational levels. The European Court of Human Rights (ECtHR) and the Court of Justice of the European Union (CJEU) emphasized the importance of proportionality, non-arbitrariness, individualized assessment, and the obligation to avoid statelessness in such cases.

²¹ Article 8(4), Convention on the Reduction of Statelessness, United Nations, 1961.

²² United Nations, Terrorism and human rights, Report of the Secretary-General, A/78/269, 2023, p. 11.

²³ *Ibid.* p. 7.

²⁴ UNHCR, Guidelines on Statelessness No. 5: Loss and Deprivation of Nationality under Articles 5-9 of the 1961 Convention on the Reduction of Statelessness – Consultation process, HCR/GS/20/05, 2020, p. 19, retrieved from: <https://www.refworld.org/policy/legalguidance/unhcr/2020/en/123216>, 07.12.2025.

*Al-Jedda v. The United Kingdom*²⁵ is one of the most influential ECtHR judgments dealing with nationality revocation in a security context. In this case, the United Kingdom deprived Al-Jedda, a British national, of his citizenship based on his alleged engagement in activities contrary to national security, thereby rendering him stateless. Argumentation on the Government's side was based on the applicant's automatic reacquisition of Iraqi nationality upon loss of British citizenship, but the Court held that nationality is not an exercise of prediction and that the applicant's nationality status was not sufficiently proven. Moreover, the Court placed a limit on a state's discretion related to deprivation measures, prohibiting their imposition if their result might be leaving a person without the protection of any state. With 16 votes to one, the Court found that Al-Jedda's rights under the Convention had been violated, setting the obligation for states to demonstrate with certainty the existence of another nationality before proceeding with deprivation as the standard.²⁶

In *Ghoumid and Others v. France*²⁷ the ECtHR, contrary to the previous one, upheld the decision to deprive five dual nationals of their French citizenship made by French authorities due to their convictions for offences related to terrorism. The fact that all applicants possessed dual nationality was decisive in not rendering them stateless, and it will later be confirmed that the existence of a second nationality can be a factor reducing risks related to human rights breaches. Besides that, the decision on deprivation was taken several years after convictions, in accordance with the law and individual assessment. Therefore, the ECtHR did not find a violation of Article 8 of the European Convention of Human Rights because of the legitimate aim, the existence of a second nationality, the proportionality test was passed and respected procedural guarantees.

A more restrictive approach was adopted in the case of *Usmanov v. Russia*.²⁸ The applicant lost his nationality based on an alleged incomplete information in his naturalization application years earlier. Removal orders that accompanied the entire process had affected his family life, which the Court found relevant in violating Article 8 of the ECHR, together with the arbitrariness of the

²⁵ The European Court of Human Rights, *Al-Jedda V. The United Kingdom*, *Application no. 27021/08*

²⁶ Human Rights Law Centre, Human rights obligations can travel: The extraterritoriality of human rights and the Iraq War, retrieved from: <https://www.hrlc.org.au/case-summaries/human-rights-obligations-can-travel-the-extraterritoriality-of-human-rights-and-the-iraq-war/> assessed: 30.11.2025.

²⁷ The European Court of Human Rights, *Ghoumid and Others v. France*, *Application nos. 52273/16, 52285/16, 52290/16, 52294/16 and 52302/16*

²⁸ The European Court of Human Rights, *Usmanov v. Russia*, *Application no. 43936/18*

decision. Procedural omissions, according to the Court, minor ones, were decisive for the state authorities rather than a potential security threat, while personal and family ties in Russia were not considered. This decision clearly shows that the state has a responsibility to demonstrate that deprivation is reasonable, necessary, and proportionate, despite the existence of procedural defects, so that, before taking measures, individualized assessment must be done.

In the *Johansen v. Denmark*²⁹ Danish authorities decided to deprive a dual citizen of his Danish citizenship, holding Tunisian citizenship as well, and to deport him to Tunisia due to the conviction for receiving training with ISIS when he was 15 years old. Danish courts deemed that deprivation of nationality is not disproportionate due to the existence of both nationalities and ties with both countries. At the end of his five-year sentence, Danish nationality was supposed to be revoked, and the applicant would be expelled to Tunisia. ECtHR did not find a violation of Article 8 ECHR since Danish authorities did not act arbitrarily, the applicant had opportunities for appeal which he did not use, and moreover, terrorist violence, as the Court underlined, was considered a grave threat to human rights,³⁰ and due to dual nationality, the measures taken did not lead to statelessness.

Here we will present an overview of the two most relevant cases before the Court of Justice of the European Union, starting with the Rottmann case³¹ which is considered a turning point in EU law. Namely, Mr Rottman, an Austrian national by birth who applied for German citizenship, had his naturalization withdrawn by Freistaat Bayern due to not disclosing during the application process that he was a subject of judicial investigation in Austria and obtaining German nationality by deception. The CJEU held that even though nationality is a competence of Member States, in cases affecting the status of EU citizenship, loss of nationality falls within the scope of EU law. Moreover, the CJEU held that deprivation of nationality must comply with the principle of proportionality and Member States are obliged to conduct a detailed assessment of potential individual consequences, including a person's ties to the Member State, and the gravity of the conduct considered as an issue, in order to avoid statelessness. Rottman finally introduced the EU citizenship as a ground for supranational review over national, emphasizing imperative

²⁹ European Court of Human Rights, *Johansen v. Denmark*, *Application no. 27801/19*

³⁰ *Ibid.* para. 50

³¹ Case C-135/08, *Janko Rottman v Freistaat Bayern*, Judgment of the Court (Grand Chamber) of 2 March 2010, ECLI:EU:C:2010:104

responsibility of Member States “that the decision to withdraw (the nationality) (*added by the author*) observes the principle of proportionality“. ³²

*Tjebbes and Others*³³ once again highlighted the importance of individual assessment and proportionality in the cases of automatic loss of nationality. According to Dutch law, dual nationals residing outside the EU for more than ten years might lose Dutch nationality automatically, which was the case of the applicants. The CJEU held that such a regulation is not incompatible with EU law, but Member States’ authorities must conduct the individual assessment and consider the final impact that the measure taken could have on personal life and the lives of the members of the family.³⁴

Conclusion

These cases clearly demonstrate convergence between the ECtHR and the CJEU towards higher standards of human rights protection related to nationality deprivation. In *Al-Jedda* deprivation, which final consequence is statelessness is prohibited. Cases *Rottmann* and *Tjebbes* are reflecting similar concerns and require a diligent assessment of individual cases to avoid risks of leaving a person without nationality. The same is with the *Ghoumid* and *Usmanov* cases, in which case-specific evaluation is one of the priorities, while trying to reject automatic and only formalistic deprivation grounds and insisting upon procedural fairness and avoiding arbitrariness.

National security and terrorism related reasons are legitimate bases for the revocation of nationality, but they do not grant states unlimited discretion. No matter how serious the allegations are, fairness and the principle of proportionality must be upheld.

Dual nationality could be perceived as a mitigation factor, as it was in the *Ghoumid* case, when that fact made deprivation of nationality more acceptable. Nevertheless, it does not exempt state authorities from conducting detailed assessments of each case's circumstances.

³² *Ibid.* para. 65

³³ C-221/17 M.G. Tjebbes a i. proti Minister van Buitenlandse Zaken, Judgment of the Court (Grand Chamber) of 12 March 2019, ECLI:EU:C:2019:189

³⁴ *Ibid.* para. 50

Although nationality-related issues are the competence of Member States, the CJEU holdings in cases *Rottmann* and *Tjebbes* demonstrated growing supranational oversight and how EU law can constrain national decisions on it, obliging Member States to comply with proportionality and allow consideration of the individual specificities. ECtHR's jurisprudence also addressed the revocation of nationality and pointed out the importance of a severe review of potential human rights breaches, enforcing the rights-based approach to citizenship.

It can be said that even though states still retain sovereignty, it is no longer absolute. States do have the authority to regulate nationality-related issues, but the withdrawal of nationality is not exclusively a domestic matter, particularly when it includes justifications referring to threats to national security or terrorism. Substantive and procedural boundaries established by international courts are designed to prevent arbitrariness and uphold the legal identity and its integrity.

In situations leading to statelessness, the strictest limitations are arising. In such cases, the Court treats deprivation of nationality as incompatible with fundamental human rights and the foundations of international human rights law, emphasizing that deprivation measures must be an exception, not the rule, reasonably applied with respect to the proportionality principle, and an individual's private and family life.

The comparative overview reveals that national and international courts have consistently held that nationality and citizenship cannot be used as a tool of exclusion or banishment. Therefore, revocation of nationality on security grounds can only be considered compatible with human rights law if the principles of legal certainty, necessity, and proportionality remain guiding criteria in decisions affecting people's lives.

Finally, as the practice of security-based deprivation continues to evolve, adherence to these principles will remain essential in ensuring that measures grounded in security reasons do not endanger the basic guarantees protecting individuals and preserving the integrity of citizenship itself.

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