ECLI:EU:C:2022:34

Provisional text

JUDGMENT OF THE COURT (Grand Chamber)

18 January 2022 (*)

(Reference for a preliminary ruling – Citizenship of the Union – Articles 20 and 21 TFEU – Scope – Renunciation of the nationality of one Member State in order to obtain the nationality of another Member State in accordance with the assurance given by the latter to naturalise the person concerned – Revocation of that assurance on grounds of public policy or public security – Principle of proportionality – Statelessness)

In Case C-118/20,

REQUEST for a preliminary ruling under Article 267 TFEU from the Verwaltungsgerichtshof (Supreme Administrative Court, Austria) made by decision of 13 February 2020, received at the Court on 3 March 2020, in the proceedings

JY

v

Wiener Landesregierung,

THE COURT (Grand Chamber),

composed of K. Lenaerts, President, A. Arabadjiev, A. Prechal, K. Jürimäe, C. Lycourgos (Rapporteur), S. Rodin, I. Jarukaitis, Presidents of Chambers, F. Biltgen, P.G. Xuereb, N. Piçarra and L.S. Rossi, Judges,

Advocate General: M. Szpunar,

Registrar: D. Dittert, Head of Unit,

having regard to the written procedure and further to the hearing on 1 March 2021,

after considering the observations submitted on behalf of:

– JY, by G. Klammer and E. Daigneault, Rechtsanwälte,

– the Austrian Government, by A. Posch, D. Hudsky, J. Schmoll and E. Samoilova, acting as Agents,

– the Estonian Government, by N. Grünberg, acting as Agent,

– the French Government, by A.-L. Desjonquères, N. Vincent and D. Dubois, acting as Agents,

– the Netherlands Government, by J.M. Hoogveld, acting as Agent,

– the European Commission, by S. Grünheid and E. Montaguti, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 1 July 2021,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 20 TFEU.

2 The request has been made in proceedings between JY and the Wiener Landesregierung (Government of the Province of Vienna, Austria) concerning the latter's decision to revoke the assurance as to the grant of Austrian nationality to JY and reject JY's application to obtain that nationality.

Legal context

International law

Convention on the Reduction of Statelessness

3 Article 7(2) of the United Nations Convention on the Reduction of Statelessness, which was adopted in New York on 30 August 1961 and entered into force on 13 December 1975 ('the Convention on the Reduction of Statelessness'), provides:

'A national of a Contracting State who seeks naturalisation in a foreign country shall not lose his nationality unless he acquires or has been accorded assurance of acquiring the nationality of that foreign country.'

The European Convention on Nationality

4 The European Convention on Nationality, adopted on 6 November 1997 within the framework of the Council of Europe, entered into force on 1 March 2000 and has been applicable to the Republic of Austria since that date.

5 Under Article 4 of that convention, headed 'Principles':

'The rules on nationality of each State Party shall be based on the following principles:

a everyone has the right to a nationality;

b statelessness shall be avoided;

…’

6 Article 7 of that convention, headed ‘Loss of nationality *ex lege* or at the initiative of a State Party’, provides:

‘1 A State Party may not provide in its internal law for the loss of its nationality *ex lege* or at the initiative of the State Party except in the following cases:

a voluntary acquisition of another nationality;

b acquisition of the nationality of the State Party by means of fraudulent conduct, false information or concealment of any relevant fact attributable to the applicant;

…

d conduct seriously prejudicial to the vital interests of the State Party;

…

3 A State Party may not provide in its internal law for the loss of its nationality under paragraphs 1 and 2 of this article if the person concerned would thereby become stateless, with the exception of the cases mentioned in paragraph 1, sub-paragraph b of this article.’

7 Article 8 of the convention, which is entitled ‘Loss of nationality at the initiative of the individual’, provides, in paragraph 1 thereof:

‘Each State Party shall permit the renunciation of its nationality provided the persons concerned do not thereby become stateless.’

8 Under Article 15 of the European Convention on Nationality:

‘The provisions of this convention shall not limit the right of a State Party to determine in its internal law whether:

a its nationals who acquire or possess the nationality of another State retain its nationality or lose it;

b the acquisition or retention of its nationality is subject to the renunciation or loss of another nationality.’

9 Pursuant to Article 16 of that convention:

‘A State Party shall not make the renunciation or loss of another nationality a condition for the acquisition or retention of its nationality where such renunciation or loss is not possible or cannot reasonably be required.’

European Union law

10 Article 20 TFEU states:

‘1. Citizenship of the Union is hereby established. Every person holding the nationality of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to and not replace national citizenship.

2. Citizens of the Union shall enjoy the rights and be subject to the duties provided for in the Treaties. They shall have, inter alia:

(a) the right to move and reside freely within the territory of the Member States;

…’

Austrian law

11 Paragraph 10 of the Staatsbürgerschaftsgesetz 1985 (1985 Austrian Law on Citizenship) (BGBl. 311/1985), in the version applicable to the dispute in the main proceedings (‘the StbG’), provides:

‘(1) Except as otherwise provided for in the present federal law, citizenship may be granted to an alien only if

…

6. on the basis of his conduct hitherto, the alien guarantees that he has a positive attitude towards the Republic and neither represents a danger to law and order or public security nor endangers other public interests as referred to in Article 8(2) of the [European Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950];

…

(2) An alien may not be granted citizenship

…

2. if he has been the subject of more than one enforceable conviction for a serious administrative offence of a particular degree of gravity …

…

(3) An alien possessing foreign nationality may not be granted citizenship if he

1. fails to take the necessary steps to relinquish his former citizenship even though such steps are possible and reasonable for the alien …

…’

12 Paragraph 20(1) to (3) of the StbG provides:

‘(1) An alien shall be given an assurance that citizenship will be granted to him in cases where, within two years, he provides proof of having relinquished the citizenship of his former State of origin, if

1. he is not stateless;

2. … and

3. that assurance makes possible or could facilitate his relinquishing of the citizenship of his former State of origin.

(2) The assurance as to the grant of citizenship shall be revoked if the alien no longer fulfils any one of the requirements laid down for that grant, with the exception of point 7 of Paragraph 10(1).

(3) The citizenship the grant of which has been assured shall be granted as soon as the alien

1. relinquishes the citizenship of his former State of origin;

2. gives proof that he was unable or could not reasonably be expected to take the necessary steps to relinquish the former citizenship of a State.’

The dispute in the main proceedings and the questions referred for a preliminary ruling

13 By letter of 15 December 2008, JY, at the time an Estonian national, applied for Austrian nationality.

14 By decision of 11 March 2014, the Niederösterreichische Landesregierung (Government of the Province of Lower Austria, Austria) assured JY, in accordance, inter alia, with Paragraph 20 of the StbG, that she would be granted Austrian nationality if she could prove, within two years, that she had relinquished her citizenship of the Republic of Estonia.

15 JY, who had since moved her primary residence to Vienna (Austria), provided, within the two-year period stipulated, confirmation by the Republic of Estonia that her citizenship of that Member State had been relinquished by decision of the government of that Member State of 27 August 2015. JY has been a stateless person since relinquishing that citizenship.

16 By decision of 6 July 2017, the Wiener Landesregierung (Government of the Province of Vienna, Austria), which had become competent to examine JY’s application, revoked the decision of the Niederösterreichische Landesregierung (Government of the Province of Lower Austria) of 11 March 2014, in accordance with Paragraph 20(2) of the StbG and rejected, pursuant to point 6 of Paragraph 10(1) of that law, JY’s application for Austrian nationality.

17 The Wiener Landesregierung (Government of the Province of Vienna) justified that decision by stating that JY had committed, since receiving the assurance that she will be granted Austrian nationality, two serious administrative offences (failing to display a vehicle inspection disc and driving a motor vehicle while under the influence of alcohol) and that she had committed eight administrative offences between 2007 and 2013, before that assurance was given to her. Therefore, according to that administrative authority, JY no longer satisfied the conditions for grant of nationality laid down in point 6 of Paragraph 10(1) of the StbG.

18 By judgment of 23 January 2018, the Verwaltungsgericht Wien (Administrative Court, Vienna, Austria) dismissed the action brought by JY against that decision. After pointing out that assurance as to the grant of Austrian nationality may also be revoked, in accordance with Paragraph 20(2) of the StbG, where, as in the present case, a ground for refusal arises after providing proof that the former citizenship has been relinquished, that court pointed out that the two serious administrative offences committed by JY were likely, for the first one, to jeopardise road safety and, for the second, specifically to jeopardise the safety of other road users. Thus, according to that court, on account of those two serious administrative offences, taken together with the eight administrative offences committed between 2007 and 2013, it was no longer possible to give a favourable prognosis concerning JY for the future, for the purposes of point 6 of Paragraph 10(1) of that law. JY's long period of residence in Austria and her professional and personal integration in that Member State do not affect that conclusion.

19 Furthermore, the Verwaltungsgericht Wien (Administrative Court, Vienna) considered that, in view of the existence of those offences, the decision at issue in the main proceedings was proportionate in the light of the Convention on the Reduction of Statelessness. That court also held that the case at issue in the main proceedings did not fall within EU law.

20 JY lodged an appeal on a point of law (*Revision*) against that judgment before the Verwaltungsgerichtshof (Supreme Administrative Court, Austria).

21 That court explains that Austrian law on citizenship is based, inter alia, on the premiss that multiple nationalities should be avoided wherever possible. Moreover, in order to prevent statelessness, various foreign legal systems do not allow citizenship to be relinquished first. However, that does not mean that the other (in this case Austrian) citizenship must be acquired beforehand; assurance that that other nationality will be granted may suffice.

22 The referring court states that the assurance referred to in Paragraph 20(1) of the StbG establishes a right to the grant of nationality that is conditional solely upon proof that foreign citizenship has been relinquished. However, under Paragraph 20(2) of that law, that assurance must be revoked if the foreign national no longer fulfils one of the requirements for that grant.

23 In the present case, in view of the administrative offences committed by JY before and after she was given assurance as to the grant of Austrian nationality, the referring court points out that, under Austrian law, the conditions for revocation of that assurance were fulfilled, within the meaning of Paragraph 20(2) of the StbG, since the person concerned no longer satisfied one of the requirements for the grant of Austrian nationality, namely that referred to in point 6 of Paragraph 10(1) of that law.

24 However, the question arises as to whether JY's situation, by reason of its nature and its consequences, falls within EU law and whether, in order to adopt the decision at issue in the main proceedings, the competent administrative authority was required to have due regard to EU law, in particular the principle of proportionality enshrined in EU law.

25 In that regard, the referring court, like the Verwaltungsgericht Wien (Administrative Court, Vienna), takes the view that such a situation does not fall within EU law.

26 On the date on which the revocation decision at issue in the main proceedings was adopted, that date being decisive for the purpose of examining the merits of the judgment of the Verwaltungsgericht Wien (Administrative Court, Vienna), JY no longer had the status of citizen of the Union. Consequently, unlike the situations that gave rise to the judgments of 2 March 2010,

Rottmann (C-135/08, EU:C:2010:104), and of 12 March 2019, *Tjebbes and Others* (C-221/17, EU:C:2019:189), the loss of citizenship of the Union was not the corollary of that decision. On the contrary, as a result of the revocation of the assurance as to the grant of Austrian nationality, combined with the refusal of her application to be granted that nationality, JY lost the right, a right acquired on a conditional basis, to obtain citizenship of the Union again, a citizenship which she had previously given up herself.

27 However, if a situation such as that of JY falls within EU law, the referring court asks whether the competent national authorities and courts must ascertain, in accordance with the Court's case-law, whether the revocation of the assurance as to the grant of the nationality concerned, which prevents citizenship of the Union from being obtained again, is compatible, from the point of view of EU law, with the principle of proportionality, having regard to the consequences of such a decision on the situation of the person concerned. That court considers that it would be logical, in that case, for such a review of proportionality to be required and asks, in the present case, whether the mere fact that JY has renounced her citizenship of the Union by putting an end herself to the special relationship of solidarity and good faith which united her to Estonia and also the reciprocity of rights and duties with that Member State, which formed the bedrock of the bond of nationality (see, to that effect, judgment of 12 March 2019, *Tjebbes and Others* (C-221/17, EU:C:2019:189, paragraph 33), is decisive in that regard.

28 In those circumstances, the Verwaltungsgerichtshof (Supreme Administrative Court) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) Does the situation of a natural person who, like the appellant in cassation in the main proceedings, has renounced her only nationality of a Member State of the European Union, and thus her citizenship of the Union, in order to obtain the nationality of another Member State, having been given a guarantee by the other Member State of grant of the nationality applied for, and whose possibility of recovering citizenship of the Union is subsequently eliminated by revocation of that guarantee, fall, by reason of its nature and its consequences, within the scope of EU law, such that regard must be had to EU law when revoking the guarantee of grant of citizenship?

If the first question is answered in the affirmative,

(2) Is it for the competent national authorities, including any national courts, involved in the decision to revoke the guarantee of grant of nationality of the Member States, to establish whether the revocation of the guarantee that prevented the recovery of citizenship of the Union is compatible with the principle of proportionality from the point of view of EU law in terms of its consequences for the situation of the person concerned?'

Consideration of the questions referred

The first question

29 By its first question, the referring court asks, in essence, whether the situation of a person who, having the nationality of one Member State only, renounces that nationality and loses, as a result, his or her status of citizen of the Union, with a view to obtaining the nationality of another Member State, following the assurance given by the authorities of the latter Member State that he or she will be granted that nationality, falls, by reason of its nature and its consequences, within the scope of EU law where that assurance is revoked with the effect of preventing that person from recovering the status of citizen of the Union.

30 It should be noted at the outset that, in accordance with Paragraph 20(1) of the StbG, a foreign national who satisfies the conditions laid down in that provision is to be given the assurance that he or she would be granted Austrian nationality if, within two years, he or she provides proof of having relinquished the citizenship of his or her State of origin. It follows that, in the naturalisation procedure, the grant of Austrian nationality to that foreign national, following such assurance, requires, as a precondition, the loss of his or her previous nationality.

31 Consequently, as a first step, the – at least temporary – loss of the status of citizen of the Union of a person, such as JY, who holds only the nationality of his or her Member State of origin and starts a naturalisation procedure in order to obtain Austrian nationality, stems directly from the fact that, at the request of that person, the government of the Member State of origin has dissolved the bond of nationality with that person.

32 It is only as a second step that the decision of the Austrian authorities with jurisdiction to revoke the assurance as to the grant of Austrian nationality entails the permanent loss of the status of citizen of the Union of such a person.

33 Therefore, on the date on which, according to the referring court, the merits of the action before it must be examined, namely that of the decision to revoke the assurance as to the grant of Austrian nationality, JY had already become stateless and, therefore, had lost her status of citizen of the Union.

34 That court and the Austrian Government conclude that the situation at issue in the main proceedings does not fall within the scope of EU law and state in that respect that that situation is different from those which gave rise to the judgments of 2 March 2010, *Rottmann* (C-135/08, EU:C:2010:104), and of 12 March 2019, *Tjebbes and Others* (C-221/17, EU:C:2019:189).

35 However, it is important, in the first place, to note that, in a situation such as that of JY, although the loss of the status of citizen of the Union stems from the fact that the Member State of origin of that person, at that person's request, has dissolved the bond of nationality with the latter, that application was made in the context of a naturalisation procedure seeking to obtain Austrian nationality and is the consequence of the fact that that person, taking account of the assurance given to him or her that he or she will be granted Austrian nationality, complied with the requirements of both the StbG and the decision concerning that assurance.

36 In those circumstances, a person such as JY could not be considered to have renounced voluntarily the status of citizen of the Union. On the contrary, having received from the host Member State the assurance that he or she will be granted the nationality of the latter, the purpose of the application for dissolution of the bond of nationality with the Member State of which that person is a national is to enable that person to fulfil a condition for the acquisition of that nationality and, once obtained, to continue to enjoy the status of citizen of the Union and the rights attaching thereto.

37 In the second place, it must be noted that it is for each Member State, having due regard to international law, to lay down the conditions for acquisition and loss of nationality, and that in situations covered by EU law, the national rules concerned must have due regard to the latter (judgment of 14 December 2021, *V.M.A.*, C-490/20, EU:C:2021:1008, paragraph 38 and the case-law cited).

38 In addition, Article 20(1) TFEU confers on every person holding the nationality of a Member State Union citizenship, which, according to settled case-law, is destined to be the fundamental

status of nationals of the Member States (judgment of 15 July 2021, *A (Public healthcare)*, C-535/19, EU:C:2021:595, paragraph 41 and the case-law cited).

39 Where, in the context of a naturalisation procedure, the competent authorities of the host Member State revoke the assurance as to the grant of nationality of that State, the person concerned who was a national of one other Member State only and renounced his or her original nationality in order to comply with the requirements of that procedure is in a situation in which it is impossible for that person to continue to assert the rights arising from the status of citizen of the Union.

40 Consequently, such a procedure, taken as a whole, even if it involves an administrative decision of a Member State other than that of which nationality is sought, affects the status conferred by Article 20 TFEU on nationals of the Member States, since it may result in a person in a situation such as that of JY being deprived of all the rights attaching to that status, although, at the time when the naturalisation procedure began, that person held the nationality of a Member State and thus had the status of citizen of the Union.

41 In the third place, it is common ground that JY, as an Estonian national, has exercised her freedom of movement and residence, pursuant to Article 21(1) TFEU, by settling in Austria, where she has been living for several years.

42 However, the Court has already held that the rights conferred on a Union citizen by Article 21(1) TFEU are intended, amongst other things, to promote the gradual integration of the Union citizen concerned in the society of the host Member State (judgment of 14 November 2017, *Lounes*, C-165/16, EU:C:2017:862, paragraph 56).

43 Thus, the underlying logic of gradual integration that informs that provision of the FEU Treaty requires that the situation of citizens of the Union, who acquired rights under that provision as a result of having exercised their right to free movement within the European Union and are liable to lose not only entitlement to those rights but also the very status of citizen of the Union, even though they have sought, by becoming naturalised in the host Member State, to become more deeply integrated in the society of that Member State, falls within the scope of the Treaty provisions relating to citizenship of the Union.

44 In view of the above, the answer to the first question is that the situation of a person who, having the nationality of one Member State only, renounces that nationality and loses, as a result, his or her status of citizen of the Union, with a view to obtaining the nationality of another Member State, following the assurance given by the authorities of the latter Member State that he or she will be granted that nationality, falls, by reason of its nature and its consequences, within the scope of EU law where that assurance is revoked with the effect of preventing that person from recovering the status of citizen of the Union.

The second question

45 By its second question, the referring court asks, in essence, whether Article 20 TFEU must be interpreted as meaning that the competent national authorities and, as the case may be, the national courts of the host Member State are required to ascertain whether the decision to revoke the assurance as to the grant of the nationality of that Member State, which makes the loss of the status of citizen of the Union permanent for the person concerned, is compatible with the principle of proportionality in the light of the consequences it entails for that person’s situation.

46 As noted in paragraph 38 above, the status of citizen of the Union conferred by Article 20(1) TFEU on every person holding the nationality of a Member State is destined to be the fundamental status of nationals of the Member States. In that regard, Article 20(2)(a) TFEU provides that citizens of the Union are to enjoy the rights and be subject to the duties imposed by the Treaties and have, inter alia, the right to move and reside freely within the territory of the Member States.

47 Where, in the context of a naturalisation procedure initiated in a Member State, that State, by virtue of the powers it has to lay down the conditions for acquisition and loss of nationality, requires a citizen of the Union to renounce the nationality of his or her Member State of origin, the exercise and effectiveness of the rights which that citizen of the Union derives from Article 20 TFEU require that that person should not at any time be liable to lose the fundamental status of citizen of the Union by the mere fact of the implementation of that procedure.

48 Any loss, even temporary, of that status means that the person concerned is deprived, for an indefinite period, of the opportunity to enjoy all the rights conferred by that status.

49 In that respect, it must be borne in mind that the principles stemming from EU law with regard to the powers of the Member States in the sphere of nationality, and also their duty to exercise those powers having due regard to EU law, apply both to the host Member State and to the Member State of the original nationality (see, to that effect, judgment of 2 March 2010, *Rottmann*, C-135/08, EU:C:2010:104, paragraph 62).

50 It follows that, where a national of a Member State applies to relinquish his or her nationality in order to be able to obtain the nationality of another Member State and thus continue to enjoy the status of citizen of the Union, the Member State of origin should not adopt, on the basis of an assurance given by that other Member State that the person concerned will be granted the nationality of that State, a final decision concerning the deprivation of nationality without ensuring that that decision enters into force only once the new nationality has actually been acquired.

51 That said, in a situation where the status of citizen of the Union has already been temporarily lost because, in the context of a naturalisation procedure, the Member State of origin withdraws the nationality of the person concerned before that person has actually acquired the nationality of the host Member State, the obligation to ensure the effectiveness of Article 20 TFEU falls primarily on the latter Member State. That obligation arises, in particular, where that Member State decides to revoke the assurance previously given to that person as to the grant of nationality, since that decision may have the effect of making the loss of the status of citizen of the Union permanent. Such a decision can therefore be made only on legitimate grounds and subject to the principle of proportionality.

52 In that respect, the Court has already held that it is legitimate for a Member State to wish to protect the special relationship of solidarity and good faith between it and its nationals and also the reciprocity of rights and duties, which form the bedrock of the bond of nationality (judgments of 2 March 2010, *Rottmann*, C-135/08, EU:C:2010:104, paragraph 51, and of 12 March 2019, *Tjebbes and Others*, C-221/17, EU:C:2019:189, paragraph 33).

53 In the present case, as the Austrian Government has pointed out and as is apparent from Paragraph 10(3) of the StbG, the purpose of that law is, inter alia, to avoid one person having multiple nationalities. Paragraph 20(1) of that law is one of the provisions intended precisely to achieve that objective.

54 In that regard, it should be noted, first, that, in the exercise of its powers to lay down the conditions for the acquisition and loss of its nationality, it is legitimate for a Member State, such as the Republic of Austria, to take the view that the undesirable consequences of one person having multiple nationalities should be avoided.

55 The legitimacy, in principle, of that objective is borne out by Article 15(b) of the European Convention on Nationality, according to which the provisions of that convention do not limit the right of each State party to determine in its internal law whether the acquisition or retention of its nationality is subject to the renunciation or to the loss of another nationality. As the Advocate General observed, in essence, in point 92 of his Opinion, that legitimacy is further supported by Article 7(2) of the Convention on the Reduction of Statelessness, according to which a national of a contracting State who seeks naturalisation in a foreign country is not to lose his or her nationality unless that person acquires or has been accorded assurance of acquiring the nationality of that foreign country.

56 Secondly, Paragraph 20(2) of the StbG provides that the assurance as to the grant of Austrian nationality is to be revoked where the person concerned no longer fulfils any one of the requirements for that grant. Among those requirements is that laid down in point 6 of Paragraph 10(1) of the StbG, according to which the person concerned must, on the basis of his or her conduct hitherto, guarantee that he or she has a positive attitude towards the Republic of Austria and neither represents a danger to law and order or public security nor endangers other public interests as referred to in Article 8(2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

57 The decision to revoke the assurance as to the grant of nationality on the ground that the person concerned does not have a positive attitude towards the Member State of which he or she wishes to acquire the nationality and that his or her conduct is liable to represent a danger to public order and security of that Member State is based on a reason relating to the public interest (see, by analogy, judgment of 2 March 2010, *Rottmann*, C-135/08, EU:C:2010:104, paragraph 51).

58 That said, having regard to the importance which primary law attaches to the status of citizen of the Union which, as has been pointed out in paragraphs 38 and 46 above, constitutes the fundamental status of nationals of the Member States, it is for the competent national authorities and the national courts to ascertain whether the decision to revoke the assurance as to the grant of nationality, when it entails the loss of the status of citizen of the Union and of the rights attaching thereto, has due regard to the principle of proportionality so far as concerns the consequences it entails for the situation of the person concerned and, if relevant, for the members of his or her family, from the point of view of EU law (see, by analogy, judgments of 2 March 2010, *Rottmann*, C-135/08, EU:C:2010:104, paragraphs 55 and 56, and of 12 March 2019, *Tjebbes and Others*, C-221/17, EU:C:2019:189, paragraph 40).

59 Examination of whether the principle of proportionality enshrined in EU law was observed requires an individual assessment of the situation of the person concerned and, if relevant, that of his or her family in order to determine whether the consequences of the decision to revoke the assurance as to the grant of nationality, when it entails the loss of the status of citizen of the Union, might, with regard to the objective pursued by the national legislature, disproportionately affect the normal development of his or her family and professional life from the point of view of EU law. Those consequences cannot be hypothetical or merely a possibility (see, by analogy, judgment of 12 March 2019, *Tjebbes and Others*, C-221/17, EU:C:2019:189, paragraph 44).

60 In this respect it is necessary to establish, in particular, whether that decision is justified in relation to the gravity of the offence committed by that person and to whether it is possible for that person to recover his or her original nationality (see, by analogy, judgment of 2 March 2010, *Rottmann*, C-135/08, EU:C:2010:104, paragraph 56).

61 As part of that examination of proportionality, it is, in addition, for the competent national authorities and, where appropriate, for the national courts to ensure that such a decision is consistent with the fundamental rights guaranteed by the Charter of Fundamental Rights of the European Union, the observance of which the Court ensures, and specifically the right to respect for family life as stated in Article 7 of that charter, where appropriate read in conjunction with the obligation to take into consideration the best interests of the child, recognised in Article 24(2) of the said charter (see, by analogy, judgment of 12 March 2019, *Tjebbes and Others*, C-221/17, EU:C:2019:189, paragraph 45 and the case-law cited).

62 In the present case, as regards, first, the possibility for JY to recover Estonian nationality, the referring court must take account of the fact that, according to the information provided by the Estonian Government at the hearing, Estonian law requires the person who has relinquished Estonian citizenship, inter alia, to reside in that Member State for eight years in order to be able to recover the nationality of that State.

63 It is important, however, to point out that a Member State cannot be prevented from revoking an assurance as to the grant of its nationality merely because the person concerned, who no longer fulfils the conditions required to acquire that nationality, will find it difficult to recover the nationality of his or her Member State of origin (see, by analogy, judgment of 2 March 2010, *Rottmann*, C-135/08, EU:C:2010:104, paragraph 57).

64 As regards, secondly, the gravity of the offences committed by JY, it is apparent from the request for a preliminary ruling that she is accused of having committed, after receiving the assurance that she will be granted Austrian nationality, two serious administrative offences (first, failing to display a vehicle inspection disc and, secondly, driving a motor vehicle while under the influence of alcohol) and being responsible for eight administrative offences, committed between 2007 and 2013, before that assurance was given to her.

65 First, as regards those eight administrative offences, it is important to note that they were known at the time the assurance was given to her and did not preclude that assurance being given to her. Accordingly, account can no longer be taken of those offences as a basis for the decision to revoke that assurance.

66 As regards, secondly, the two administrative offences committed by JY after receiving the assurance as to the grant of Austrian nationality, those offences were regarded by the Verwaltungsgericht Wien (Administrative Court, Vienna) as, respectively, ‘jeopardis[ing] road safety’ and ‘specifically jeopardis[ing] the safety of other road users’. According to the referring court, the latter offence is ‘a serious infringement of laws enacted to protect public order and road safety’ and can ‘of itself substantiate failure to fulfil the requirements for the grant of citizenship enacted in point 6 of Paragraph 10(1) of the StbG, whereby the degree of intoxication is immaterial …’.

67 The Austrian Government stated in its written observations that, in accordance with the settled case-law of the Verwaltungsgerichtshof (Supreme Administrative Court), in the context of the procedure referred to in Paragraph 20(2) of the StbG, read in conjunction with point 6 of Paragraph 10(1) of that law, account must be taken of the overall conduct of the person applying for

nationality, in particular the offences which he or she has committed. The decisive question is whether these are unlawful acts that warrant the conclusion that that applicant, in future also, will disregard essential provisions enacted to protect against risks to life, health, law and order or public security, or to protect other legal interests referred to in Article 8(2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

68 It should be recalled in that regard that, as a justification for a decision entailing the loss of the status of citizen of the Union conferred on nationals of Member States by Article 20 TFEU, the concepts of 'public policy' and 'public security' must be interpreted strictly, so that their scope cannot be determined unilaterally by the Member States without being subject to control by the EU institutions (see, by analogy, judgment of 13 September 2016, *Rendón Marín*, C-165/14, EU:C:2016:675, paragraph 82).

69 The Court has thus held that the concept of 'public policy' presupposes, in any event, the existence, in addition to the disturbance of the social order which any infringement of the law involves, of a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society. As regards 'public security', it is apparent from the Court's case-law that this concept covers both the internal security of a Member State and its external security and that, consequently, a threat to the functioning of institutions and essential public services and the survival of the population, as well as the risk of a serious disturbance to foreign relations or to peaceful coexistence of nations, or a risk to military interests, may affect public security (judgment of 13 September 2016, *Rendón Marín*, C-165/14, EU:C:2016:675, paragraph 83 and the case-law cited).

70 In the present case, it should be noted that, in view of the nature and gravity of the two administrative offences referred to in paragraph 66 above and of the requirement that the concepts of 'public policy' and 'public security' be interpreted strictly, it does not appear that JY represents a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society or a threat to public security in the Republic of Austria. It is true that those offences constitute an infringement of the provisions relating to the highway code undermining road safety. It is apparent, however, from both JY's written observations and the Austrian Government's reply to a question put by the Court at the hearing that those two administrative offences, which, incidentally, resulted in relatively low fines of EUR 112 and EUR 300 respectively, were not such as to lead to the withdrawal of JY's driving licence and thus prohibit JY from driving a motor vehicle on the public highway.

71 Traffic offences, punishable by mere administrative fines, cannot be regarded as capable of demonstrating that the person responsible for those offences is a threat to public policy and public security which may justify the permanent loss of his or her status of citizen of the Union. That is all the more so since, in the present case, those offences resulted in minor administrative fines and did not deprive JY of the right to continue to drive a motor vehicle on the public highway.

72 It should be added, moreover, that should the referring court find that, in accordance with the assurance as to the grant of Austrian nationality, the latter has already been granted to the person concerned, such offences would not, in themselves, lead to withdrawal of naturalisation.

73 Thus, in the light of the significant consequences for JY's situation, as regards, in particular, the normal development of her family and professional life, of the decision to revoke the assurance as to the grant of Austrian nationality, which has the effect of making the loss of the status of citizen of the Union permanent, that decision does not appear proportionate to the gravity of the offences committed by that person.

74 In the light of the foregoing considerations, the answer to the second question is that Article 20 TFEU must be interpreted as meaning that the competent national authorities and, as the case may be, the national courts of the host Member State are required to ascertain whether the decision to revoke the assurance as to the grant of the nationality of that Member State, which makes the loss of the status of citizen of the Union permanent for the person concerned, is compatible with the principle of proportionality in the light of the consequences it entails for that person's situation. That requirement of compatibility with the principle of proportionality is not satisfied where such a decision is based on administrative traffic offences which, under the applicable provisions of national law, give rise to a mere pecuniary penalty.

Costs

75 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Grand Chamber) hereby rules:

1. **The situation of a person who, having the nationality of one Member State only, renounces that nationality and loses, as a result, his or her status of citizen of the Union, with a view to obtaining the nationality of another Member State, following the assurance given by the authorities of the latter Member State that he or she will be granted that nationality, falls, by reason of its nature and its consequences, within the scope of EU law where that assurance is revoked with the effect of preventing that person from recovering the status of citizen of the Union.**

2. **Article 20 TFEU must be interpreted as meaning that the competent national authorities and, as the case may be, the national courts of the host Member State are required to ascertain whether the decision to revoke the assurance as to the grant of the nationality of that Member State, which makes the loss of the status of citizen of the Union permanent for the person concerned, is compatible with the principle of proportionality in the light of the consequences it entails for that person's situation. That requirement of compatibility with the principle of proportionality is not satisfied where such a decision is based on administrative traffic offences which, under the applicable provisions of national law, give rise to a mere pecuniary penalty.**

[Signatures]

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* Language of the case: German.