ECLI:EU:C:2023:626

Provisional text

JUDGMENT OF THE COURT (Grand Chamber)

5 September 2023 (*)

(Reference for a preliminary ruling – Citizenship of the European Union – Article 20 TFEU – Article 7 of the Charter of Fundamental Rights of the European Union – Citizen holding the nationality of a Member State and the nationality of a third country – Loss of the nationality of the Member State by operation of law upon reaching the age of 22 on the ground of lack of a genuine link with that Member State where no application to retain nationality has been made before the date on which that age is reached – Loss of citizenship of the Union – Examination of the proportionality of the consequences of that loss from the point of view of EU law – Limitation period)

In Case C-689/21,

REQUEST for a preliminary ruling under Article 267 TFEU from the Østre Landsret (High Court of Eastern Denmark, Denmark), made by decision of 11 October 2021, received at the Court on 16 November 2021, in the proceedings

**X**

v

**Udlændinge- og Integrationsministeriet,**

THE COURT (Grand Chamber),

composed of K. Lenaerts, President, L. Bay Larsen, Vice-President, A. Prechal, C. Lycourgos (Rapporteur), E. Regan, P.G. Xuereb, L.S. Rossi, D. Gratsias and M.L. Arastey Sahún, Presidents of Chambers, S. Rodin, F. Biltgen, N. Piçarra, N. Wahl, I. Ziemele and J. Passer, Judges,

Advocate General: M. Szpunar,

Registrar: C. Strömholm, Administrator,

having regard to the written procedure and further to the hearing on 4 October 2022,

after considering the observations submitted on behalf of:

– X, by E.O.R. Khawaja, advokat,

– the Danish Government, by V. Pasternak Jørgensen and M. Søndahl Wolff, acting as Agents, and by R. Holdgaard and A.K. Rasmussen, advokater,

– the French Government, by A. Daniel, A.-L. Desjonquères and J. Illouz, acting as Agents,

– the European Commission, by L. Grønfeldt and E. Montaguti, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 26 January 2023,

gives the following

**Judgment**

1 This request for a preliminary ruling concerns the interpretation of Article 20 TFEU and of Article 7 of the Charter of Fundamental Rights of the European Union (‘the Charter’).

2 The request has been made in proceedings between X and the Udlændinge- og Integrationsministeriet (Ministry of Immigration and Integration, Denmark) (‘the Ministry’) concerning the loss of X’s Danish nationality.

**Legal context**

***European Union law***

3 Article 20 TFEU states:

‘1. Citizenship of the [European] 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;

…’

4 According to Article 7 of the Charter, everyone has the right to respect for his or her private and family life, home and communications.

5 Declaration No 2 on nationality of a Member State, annexed by the Member States to the final act of the Treaty on European Union (OJ 1992 C 191, p. 98; ‘Declaration No 2’), is worded as follows:

‘The Conference declares that, wherever in the Treaty establishing the European Community reference is made to nationals of the Member States, the question whether an individual possesses the nationality of a Member State shall be settled solely by reference to the national law of the Member State concerned. …’

6 According to Section A of the Decision of the Heads of State and Government, meeting within the European Council at Edinburgh on 11 and 12 December 1992, concerning certain problems raised by Denmark on the Treaty on European Union (OJ 1992 C 348, p. 1, ‘the Edinburgh Decision’):

‘The provisions of Part Two of the Treaty establishing the European Community relating to citizenship of the Union give nationals of the Member States additional rights and protection as specified in that Part. They do not in any way take the place of national citizenship. The question whether an individual possesses the nationality of a Member State will be settled solely by reference to the national law of the Member State concerned.’

***Danish law***

7 Paragraph 8(1) of the lov om dansk indfødsret (Law on Danish nationality), in the version applicable to the dispute in the main proceedings (‘the Law on Nationality’), provides:

‘A person born abroad who has never been resident in Denmark and who has also not spent time there in circumstances indicating a close attachment to Denmark shall lose his or her Danish nationality upon reaching the age of 22, unless he or she would thereby become stateless. The Minister for Refugees, Migrants and Integration, or the person whom he or she authorises for that purpose, may, however, upon application submitted before that date, allow nationality to be retained.’

8 According to the Cirkulæreskrivelse om naturalisation nr. 10873 (Circular on naturalisation No 10873) of 13 October 2015, in the version applicable to the dispute in the main proceedings (‘the Circular on naturalisation’), former Danish nationals who have lost their Danish nationality pursuant to Paragraph 8(1) of the Law on Nationality must, in principle, satisfy the general conditions for acquiring Danish nationality as required by the law in order to be able to recover that nationality In accordance with Paragraph 5(1) of the Circular on naturalisation, the applicant must be living in Denmark when the application for naturalisation is made. Paragraph 7 of that circular requires the applicant to have been resident in the territory of the Kingdom of Denmark for a continuous period of nine years.

9 Under Paragraph 13 of the Circular on naturalisation, read in conjunction with point 3 of Annex 1 thereto, the general residence requirements may be relaxed for persons who have previously held Danish nationality or who are of Danish origin.

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

10 X was born on 5 October 1992 in the United States of America to a Danish mother and an American father. Since birth, she has held Danish and American nationality. She has a brother and sister who live in the United States, one of whom is a Danish national. She has no parent, brother or sister living in Denmark.

11 On 17 November 2014, that is to say, after reaching the age of 22, X applied to the Ministry to retain her Danish nationality.

12 Based on the information in that application, the Ministry found that X had spent a maximum period of 44 weeks in Denmark before her 22nd birthday. X also stated that she had stayed in Denmark for five weeks after her 22nd birthday and that she had been a member of the Danish women's basketball team in 2015. In addition, X stated that, in 2005, she had spent approximately three to four weeks in France.

13 By decision of 31 January 2017, the Ministry informed X that she had lost Danish nationality upon reaching the age of 22, in accordance with the first sentence of Paragraph 8(1) of the Law on Nationality, and that it was not possible to apply the derogation provided for in the second sentence of Paragraph 8(1) of that law, since her application to retain Danish nationality had been made after the age of 22.

14 That decision states, in particular, that that loss is justified by the fact that X had never been resident in Denmark and had also not spent time there in circumstances indicating a close attachment to that Member State, within the meaning of the first sentence of Paragraph 8(1) of the Law on Nationality, since her stays in Denmark lasted only 44 weeks at most before the age of 22.

15 On 9 February 2018, X brought an action before the Københavns byret (District Court, Copenhagen, Denmark) for annulment of the decision of 31 January 2017 referred to in paragraph 13 of the present judgment seeking a 'reconsideration of her case'. That action was referred, by order of 3 April 2020, to the Østre Landsret (High Court of Eastern Denmark, Denmark), which is the referring court.

16 In support of her action before that court, X submits that, although the maintenance of a genuine link and the safeguarding of the special relationship of solidarity and good faith with the Member State in question fall within a legitimate objective, the automatic loss of Danish nationality without exception, provided for in Paragraph 8(1) of the Law on Nationality, is not, however, proportionate to such an objective and is therefore contrary to Article 20 TFEU, read in conjunction with Article 7 of the Charter.

17 According to X, the rules on the loss of nationality can be regarded as proportionate only if, as is apparent from the judgment of 12 March 2019, *Tjebbes and Others* (C-221/17, EU:C:2019:189), national legislation permits, at the same time, very simplified access to the recovery of nationality. However, in her submission, no such access is provided for in Danish legislation. Moreover, under that legislation, nationality is not recovered *ex tunc*.

18 The Ministry takes the view that the assessment of the lawfulness and proportionality of Paragraph 8(1) of the Law on Nationality in relation to persons who have reached the age of 22 when their application to retain Danish nationality is made must be based on an overall assessment of the Danish rules on loss and recovery of that nationality. The Danish legislature considered that persons born abroad who have not lived on the territory of the Kingdom of Denmark or resided there for a significant period of time gradually lose their relationship of good faith and of solidarity and their link with that Member State, and that it is therefore proportionate to distinguish between their legal situation before and after the age of 22. The proportionality of the loss of Danish nationality by operation of law for persons who have reached the age of 22 should also be assessed in the light of the very lenient rules on the retention of nationality until that age.

19 Furthermore, the Ministry takes the view that the lawfulness and proportionality of the national rules on loss of Danish nationality are demonstrated by the fact that it may be decided that that nationality is to be retained, on the basis of an assessment on a case-by-case basis, carried out following an application to retain that nationality submitted on a date as close as possible to that on

which the person concerned reaches the age of 22, the latter date being the date referred to in the first sentence of Paragraph 8(1) of the Law on Nationality.

20 In that context, the referring court first describes the Ministry's administrative practice in relation to the application of Paragraph 8(1) of the Law on Nationality. As regards the assessment of the existence of 'a close attachment to Denmark', within the meaning of the first sentence of that provision, a distinction is drawn between situations in which the length of residence of the person concerned in Denmark was less than or more than one year before the age of 22. If the length of that residence was at least one year, the national authorities recognise that there is a sufficiently close attachment to the Kingdom of Denmark to justify the retention of Danish nationality. However, in the converse situation, the requirements relating to that close attachment are more stringent, in the sense that the person concerned must establish that shorter stays are nevertheless an expression of a 'specific close attachment to Denmark'.

21 Moreover, as regards the possibility of authorising the retention of Danish nationality in accordance with the second sentence of Paragraph 8(1) of the Law on Nationality, emphasis is placed on a number of other factors, such as the total length of the applicant's stay in the territory of the Kingdom of Denmark, the number of stays in that Member State, whether the stays occurred shortly before the age of 22 or several years earlier, and whether the applicant is fluent in Danish and also has a link with that Member State, for example as a result of contacts with Danish parents or relationships with Danish or other associations.

22 Next, the referring court states that, following the delivery of the judgment of 12 March 2019, *Tjebbes and Others* (C-221/17, EU:C:2019:189), the understanding of Paragraph 8(1) of the Law on Nationality has been clarified. It is now established that the Ministry must, in the case of an application to retain Danish nationality made before the age of 22, take a number of additional factors into account with a view to conducting an individual examination of the proportionality of the consequences, from the point of view of EU law, of the loss of that nationality and, therefore, of citizenship of the Union. In that regard, the Ministry must assess whether the consequences of the loss of citizenship of the Union from the point of view of EU law are proportionate to the objective underlying the loss of that nationality, namely to ensure the existence of a genuine link with the Kingdom of Denmark.

23 According to the referring court, in the light of the judgment of 12 March 2019, *Tjebbes and Others* (C-221/17, EU:C:2019:189), there is doubt as to the compatibility with Article 20 TFEU, read in conjunction with Article 7 of the Charter, of the loss of Danish nationality and, as the case may be, of citizenship of the Union which, pursuant to the first sentence of Paragraph 8(1) of the Law on Nationality, occurs, by operation of law and without exception, at the age of 22, in view also of the difficult access to the recovery of that nationality by naturalisation after that age. That court states, in that regard, that, in the event of loss of that nationality, former Danish nationals must, in principle, satisfy the general conditions for naturalisation, even though a certain relaxation of those conditions may be granted as regards the length of residence in Denmark.

24 In those circumstances, the Østre Landsret (High Court of Eastern Denmark) decided to stay the proceedings and to refer the following question to the Court of Justice for a preliminary ruling:

'Does Article 20 TFEU, in conjunction with Article 7 [of the Charter], preclude legislation of a Member State, such as that at issue in the main proceedings, under which citizenship of that Member State is, in principle, lost by operation of law on reaching the age of 22 in the case of persons born outside that Member State who have never lived in that Member State and who have also not resided there in circumstances that indicate a close attachment to that Member State, with

the result that persons who do not also have citizenship of another Member State are deprived of their status as Union citizens and of the rights attaching to that status, taking into account that it follows from the legislation at issue in the main proceedings that:

(a) a close attachment to the Member State is presumed to exist, in particular, after a total of one year's residence in that Member State,

(b) if an application to retain citizenship is submitted before the person reaches the age of 22, authorisation to retain citizenship of the Member State under less stringent conditions may be obtained and for that purpose the competent authorities must examine the consequences of loss of citizenship, and

(c) lost citizenship can be recovered after the person concerned reaches the age of 22 only by means of naturalisation, to which a number of requirements are attached, including that of uninterrupted residence in the Member State for a longer duration, although the period of residence may be somewhat shortened for former nationals of that Member State?'

**Consideration of the question referred**

25 By its question, the referring court asks, in essence, whether Article 20 TFEU, read in the light of Article 7 of the Charter, must be interpreted as precluding legislation of a Member State under which its nationals born outside its territory who have never been resident there and have not spent time there in circumstances demonstrating a genuine link with that Member State lose, by operation of law, the nationality of that State at the age of 22, which entails, for persons who are not also nationals of another Member State, the loss of their citizenship of the Union and the rights attaching thereto, but which enables the competent authorities, in the event of an application by such a national in the year preceding his or her 22nd birthday for the purpose of retaining that nationality, to examine the proportionality of the consequences of the loss of that nationality from the point of view of EU law and, where appropriate, to allow the retention of that nationality.

26 It should be noted at the outset that the Danish Government requested the Court to take into consideration, in answering that question, the Edinburgh Decision, from which it is apparent that the Kingdom of Denmark, first, has a broad discretion to lay down the conditions for the acquisition and loss of nationality and, second, has adopted a special position as regards citizenship of the Union. As the Advocate General stated in point 50 of his Opinion, the relevant passages of that decision relating to citizenship of the European Union are worded in the same terms as those contained in Declaration No 2.

27 It is true that the Edinburgh Decision and Declaration No 2, which were intended to clarify the question of the definition of the ambit *ratione personae* of the provisions of European Union law referring to the concept of 'national', have to be taken into consideration as being instruments for the interpretation of the EU Treaty, especially for the purpose of determining the ambit *ratione personae* of that Treaty (see, to that effect, judgment of 2 March 2010, *Rottmann*, C-135/08, EU:C:2010:104, paragraph 40).

28 However, according to settled case-law, while it is for each Member State, having due regard to international law, to lay down the conditions for acquisition and loss of nationality, the fact that a matter falls within the competence of the Member States does not alter the fact that, in situations covered by EU law, the national rules concerned must have due regard to the latter (judgments of 2 March 2010, *Rottmann*, C-135/08, EU:C:2010:104, paragraphs 39 and 41, and of 12 March 2019, *Tjebbes and Others*, C-221/17, EU:C:2019:189, paragraph 30).

29 Article 20 TFEU confers on every person holding the nationality of a Member State Union citizenship, which is destined to be the fundamental status of nationals of the Member States (judgment of 18 January 2022, *Wiener Landesregierung (Revocation of an assurance of naturalisation)*, C-118/20, EU:C:2022:34, paragraph 38 and the case-law cited).

30 Accordingly, the situation of citizens of the Union who, like the applicant in the main proceedings, are nationals of one Member State only and who, by losing that nationality, are faced with losing the status conferred by Article 20 TFEU and the rights attaching thereto falls, by reason of its nature and its consequences, within the ambit of EU law. Thus, the Member States must, when exercising their powers in the sphere of nationality, have due regard to EU law and, in particular, the principle of proportionality (judgments of 2 March 2010, *Rottmann*, C-135/08, EU:C:2010:104, paragraphs 42 and 45; of 12 March 2019, *Tjebbes and Others*, C-221/17, EU:C:2019:189, paragraph 32; and of 18 January 2022, *Wiener Landesregierung (Revocation of an assurance of naturalisation)*, C-118/20, EU:C:2022:34, paragraph 51).

31 In that context, 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; of 12 March 2019, *Tjebbes and Others*, C-221/17, EU:C:2019:189, paragraph 33; and of 18 January 2022, *Wiener Landesregierung (Revocation of an assurance of naturalisation)*, C-118/20, EU:C:2022:34, paragraph 52).

32 When exercising its competence to lay down the conditions for acquisition and loss of nationality it is also legitimate for a Member State to take the view that nationality is the expression of a genuine link with that Member State, and therefore to prescribe that the absence, or the loss, of any such genuine link entails the loss of nationality (see, to that effect, judgment of 12 March 2019, *Tjebbes and Others*, C-221/17, EU:C:2019:189, paragraph 35).

33 In the present case, in accordance with the first sentence of Paragraph 8(1) of the Law on Nationality, Danish nationals born abroad, who have never been resident in Denmark and have also not spent time there in circumstances indicating a genuine link with Denmark, are to lose, by operation of law, Danish nationality at the age of 22, unless they would thereby become stateless.

34 According to the referring court, it is apparent from the travaux préparatoires for the Law on Nationality that the objective of Paragraph 8 thereof is to prevent Danish nationality being handed down from generation to generation to persons established abroad who have no knowledge of or link with the Kingdom of Denmark.

35 In that regard, it should be noted that EU law does not preclude a Member State from providing that the assessment of the existence or absence of a genuine link with that Member State is based on the taking into account of criteria, such as those set out in the first sentence of Paragraph 8(1) of the Law on Nationality, based on the place of birth and residence of the person concerned and on the conditions of that person's stay in the national territory, or from that Member State limiting that assessment to the period up to the date on which that person reached the age of 22.

36 There is no need, for the purposes of the present case, to examine the legitimacy of such criteria in so far as, for the purposes of that assessment, they do not draw a distinction between the birth and residence or stay of the person concerned in a Member State and the birth and residence or stay of that person in a third country. As is apparent from the request for a preliminary ruling, X has

not, in the present case, put forward any evidence capable of establishing that she was resident or spent time, with the exception of a few weeks, in a Member State before her 22nd birthday.

37 Under those circumstances, EU law does not preclude, in principle, that in situations such as those referred to in Paragraph 8(1) of the Law on Nationality, a Member State prescribes for reasons of public interest the loss of its nationality, even if that loss will entail, for the person concerned, the loss of his or her citizenship of the Union.

38 However, having regard to the importance which primary EU law attaches to citizenship of the Union which, as has been pointed out in paragraph 29 above, constitutes the fundamental status of nationals of the Member States, it is for the competent national authorities and the national courts to determine whether the loss of the nationality of the Member State concerned, when it entails the loss of citizenship of the Union and the rights attaching thereto, has due regard to the principle of proportionality so far as concerns the consequences of that loss for the situation of the person concerned and, if relevant, for that of the members of his or her family, from the point of view of EU law (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).

39 The loss of the nationality of a Member State by operation of law would be inconsistent with the principle of proportionality if the relevant national rules did not permit at any time an individual examination of the consequences of that loss for the persons concerned from the point of view of EU law (judgment of 12 March 2019, *Tjebbes and Others*, C-221/17, EU:C:2019:189, paragraph 41).

40 It follows that, in a situation such as that at issue in the main proceedings, in which the loss of the nationality of a Member State arises by operation of law at a given age and entails the loss of citizenship of the Union, the competent national authorities and courts must be in a position to examine the consequences of the loss of that nationality and, where appropriate, to enable that person to retain his or her nationality or to recover it *ex tunc* (see, to that effect, judgment of 12 March 2019, *Tjebbes and Others*, C-221/17, EU:C:2019:189, paragraph 42).

41 In that regard, EU law does not impose any specific time limit for submitting an application for such an examination. It is thus for the national legal system of each Member State to lay down procedural rules to ensure the safeguarding of rights which individuals derive from EU law, in this case rights attached to citizenship of the Union, provided, inter alia, that those rules comply with the principle of effectiveness in that they do not make it in practice impossible or excessively difficult to exercise rights conferred by EU law (see, to that effect, judgments of 16 December 1976, *Rewe-Zentralfinanz and Rewe-Zentral*, 33/76, EU:C:1976:188, paragraph 5, and of 15 April 2008, *Impact*, C-268/06, EU:C:2008:223, paragraph 46).

42 In that context, the Court has recognised the compatibility with EU law of reasonable limitation periods in the interests of legal certainty. Such periods are not liable to make it in practice impossible or excessively difficult to exercise the rights conferred by EU law (judgments of 12 February 2008, *Kempter*, C-2/06, EU:C:2008:78, paragraph 58, and of 9 September 2020, *Commissaire général aux réfugiés et aux apatrides (Rejection of a subsequent application – Time limit for bringing proceedings)*, C-651/19, EU:C:2020:681, paragraph 53).

43 It follows that the Member States may require, on the basis of the principle of legal certainty, that an application for the maintenance or recovery of nationality be submitted to the competent authorities within a reasonable period.

44 In the present case, the second sentence of Paragraph 8(1) of the Law on Nationality provides for the possibility of applying for the retention of Danish nationality before the person concerned has reached the age of 22. It follows, in that regard, from the request for a preliminary ruling that the Ministry distinguishes between two situations, depending on whether, at the time of making the application, the applicant is under 21 years of age or is between 21 and 22 years old.

45 In the first situation, the Ministry does no more than issue the applicant with a certificate of citizenship without deciding on the retention of Danish nationality after he or she has reached 22 years of age. The referring court states that such a situation is explained by the intention of the authorities that the assessment of applications for retention of Danish nationality should take place as close as possible to the date on which the applicant reaches 22 years of age.

46 It is only in the second situation, where the application for retention of Danish nationality is made by an applicant between his or her 21st and 22nd birthday, that, as is apparent from the information contained in the request for a preliminary ruling, the Ministry has, since the judgment of 12 March 2019, *Tjebbes and Others* (C-221/17, EU:C:2019:189), carried out an individual examination of the proportionality of the consequences, from the point of view of EU law, of the loss of Danish nationality and, therefore, of citizenship of the Union. In that regard, the Ministry must assess whether those consequences are proportionate to the objective pursued by Paragraph 8 of the Law on Nationality, which is to ensure the existence of a genuine link between Danish nationals and the Kingdom of Denmark.

47 However, it should be noted, in the first place, that, according to the information available to the Court, that period of one year, between the 21st and 22nd birthday of the person concerned, runs even if that person has not been duly informed by the competent authorities of the fact that he or she is exposed to the imminent loss of Danish nationality by operation of law, and that he or she is entitled to apply, within that period, for the retention of that nationality.

48 In the light of the serious consequences created by the loss of the nationality of a Member State, where that loss entails the loss of citizenship of the Union, for the effective exercise of the rights which citizens of the Union derive from Article 20 TFEU, national rules or practices which are liable to have the effect of preventing the person exposed to that loss of nationality from seeking an examination of the proportionality of the consequences of that loss from the point of view of EU law cannot be regarded as compatible with the principle of effectiveness, on the ground that the time limit for requesting that examination has expired, in a situation in which that person has not been duly informed of the right to request such an examination and of the time limit for lodging such a request.

49 In the second place, the one-year period referred to in paragraph 47 above ends on the date of the 22nd birthday of the person concerned, namely the date on which, in accordance with Danish legislation, the conditions enabling that person to demonstrate a sufficient link with the Kingdom of Denmark for the purpose of retaining his or her nationality must be satisfied. That person must therefore be able to rely, in the context of the examination which the competent authority must carry out on the proportionality of the consequences of the loss of Danish nationality from the point of view of EU law, on all the relevant matters which may have arisen up to his or her 22nd birthday. It necessarily follows that provision must be made for that person to be able to raise such matters after his or her 22nd birthday.

50 Accordingly, in a situation such as that at issue in the main proceedings, where the national legislation has the effect of causing the person concerned to lose, by operation of law, the nationality of the Member State concerned and, consequently, citizenship of the Union on the date

on which he or she reaches the age of 22, that person must have a reasonable period in which to make a request to the competent authorities for an examination of the proportionality of the consequences of that loss and, where appropriate, the retention or recovery *ex tunc* of that nationality. That period must then extend, for a reasonable length of time, beyond the date on which that person reaches that age.

51 In order to enable the rights which citizens of the Union derive from Article 20 TFEU to be exercised effectively, that reasonable period for lodging such a request cannot run unless the competent authorities have duly informed the person concerned of the loss of the nationality of the Member State in question or of the imminent loss of that nationality by operation of law and of that person's right to apply, within that period, for the retention or recovery *ex tunc* of that nationality.

52 Failing that, it follows from the case-law of the Court referred to in paragraph 40 of the present judgment that the competent national authorities and courts must be in a position to examine, as an ancillary issue, the proportionality of the consequences of loss of nationality and, where appropriate, to have the person concerned recover his or her nationality *ex tunc* in the context of an application by that person for a travel document or any other document showing his or her nationality, even if such an application has not been lodged within a reasonable period within the meaning specified in paragraph 50 of this judgment.

53 In the present case, it will be for the referring court to carry out such an examination or, where appropriate, to ensure that it is carried out by the competent authorities in response to the application referred to in paragraph 11 of the present judgment.

54 That examination must include an individual assessment of the situation of the person concerned and that of his or her family in order to determine whether the consequences of losing the nationality of the Member State concerned, when it entails the loss of his or her citizenship 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 (judgment of 12 March 2019, *Tjebbes and Others*, C-221/17, EU:C:2019:189, paragraph 44).

55 As part of that examination of proportionality, it is, in particular, for the competent national authorities and, where appropriate, for the national courts to ensure that the loss of nationality is consistent with the fundamental rights guaranteed by the Charter, the observance of which the Court ensures, and specifically the right to respect for family life as stated in Article 7 of the Charter. That article must be read, where appropriate, in conjunction with the obligation to take into consideration the best interests of the child, recognised in Article 24(2) of the Charter (see, to that effect, judgments of 12 March 2019, *Tjebbes and Others*, C-221/17, EU:C:2019:189, paragraph 45, and of 18 January 2022, *Wiener Landesregierung (Revocation of an assurance of naturalisation)*, C-118/20, EU:C:2022:34, paragraph 61).

56 As regards the relevant date to be taken into account, in the present case, by the competent authorities for the purposes of such an examination, that date necessarily corresponds to the day on which the person concerned reached the age of 22, since, in accordance with Paragraph 8(1) of the Law on Nationality, that date forms an integral part of the legitimate criteria which that Member State has determined, and on which the retention or loss of that person's nationality depends.

57 As regards, lastly, the possibility, raised by the referring court and the Danish Government, offered to former Danish nationals who have lost Danish nationality and, therefore, their citizenship of the Union, to recover that nationality by naturalisation subject to certain conditions, including

that of having resided continuously in Denmark over a long period which, however, may be somewhat shortened, it is sufficient to note that the absence of any possibility offered by national law, under conditions which are consistent with EU law as interpreted in paragraphs 40 and 43 of the present judgment, to obtain from the national authorities and, potentially, from the national courts, an examination of the proportionality of the consequences of the loss of the nationality of the Member State concerned from the point of view of EU law and which may, where appropriate, lead to the recovery *ex tunc* of that nationality, cannot be compensated for by the possibility of naturalisation, regardless of the conditions – possibly favourable – under which that naturalisation may be obtained.

58 As the Advocate General observed, in essence, in points 93 and 94 of his Opinion, to accept that the position is otherwise would be tantamount to accepting that a person could be deprived, even for a limited period, of the possibility of enjoying all the rights conferred on him or her by virtue of his or her citizenship of the Union, without it being possible for those rights to be restored for that period.

59 It follows from all the foregoing considerations that the answer to the question referred is that Article 20 TFEU, read in the light of Article 7 of the Charter, must be interpreted as not precluding legislation of a Member State under which its nationals born outside its territory who have never been resident there and have not spent time there in circumstances demonstrating a genuine link with that Member State lose, by operation of law, the nationality of that State at the age of 22, which entails, for persons who are not also nationals of another Member State, the loss of their citizenship of the European Union and the rights attaching thereto, provided that the persons concerned are given the opportunity to lodge, within a reasonable period, an application for the retention or recovery of the nationality, which enables the competent authorities to examine the proportionality of the consequences of the loss of that nationality from the point of view of EU law and, where appropriate, to allow the retention or recovery *ex tunc* of that nationality. Such a period must extend, for a reasonable length of time, beyond the date on which the person concerned reaches that age and cannot begin to run unless those authorities have duly informed that person of the loss of his or her nationality or of the imminence of that loss, and of his or her right to apply, within that period, for the maintenance or recovery of that nationality. Failing that, those authorities must be in a position to carry out such an examination, as an ancillary issue, in the context of an application by the person concerned for a travel document or any other document showing his or her nationality.

**Costs**

60 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring 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:

**Article 20 TFEU, read in conjunction with Article 7 of the Charter of Fundamental Rights of the European Union,**

**must be interpreted as not precluding legislation of a Member State under which its nationals born outside its territory who have never been resident there and have not spent time there in circumstances demonstrating a genuine link with that Member State lose, by operation of law, the nationality of that State at the age of 22, which entails, for persons who are not also nationals of another Member State, the loss of their citizenship of the European Union and**

**the rights attaching thereto, provided that the persons concerned are given the opportunity to lodge, within a reasonable period, an application for the retention or recovery of the nationality, which enables the competent authorities to examine the proportionality of the consequences of the loss of that nationality from the point of view of EU law and, where appropriate, to allow the retention or recovery *ex tunc* of that nationality. Such a period must extend, for a reasonable length of time, beyond the date on which the person concerned reaches that age and cannot begin to run unless those authorities have duly informed that person of the loss of his or her nationality or of the imminence of that loss, and of his or her right to apply, within that period, for the maintenance or recovery of that nationality. Failing that, those authorities must be in a position to carry out such an examination, as an ancillary issue, in the context of an application by the person concerned for a travel document or any other document showing his or her nationality.**

[Signatures]

---

* Language of the case: Danish.