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Provisional text

JUDGMENT OF THE COURT (Fourth Chamber)

25 April 2024 (\*)

(Reference for a preliminary ruling – Citizenship of the Union – Article 20 TFEU – Nationality of a Member State and of a third country – Acquisition of the nationality of a third country – Loss of the nationality of a Member State and of citizenship of the Union by operation of law – Possibility of applying to retain the nationality of the Member State prior to acquisition of the nationality of a third country – Individual examination of the consequences of the loss of the nationality of the Member State in the light of EU law – Scope)

In Joined Cases C-684/22 to C-686/22,

REQUESTS for a preliminary ruling under Article 267 TFEU from the Verwaltungsgericht Düsseldorf (Administrative Court, Düsseldorf, Germany), made by decisions of 3 November 2022, received at the Court on 8 November 2022, in the proceedings

**S.Ö.**

v

**Stadt Duisburg** (C-684/22),

and

**N.Ö.,**

**M.Ö.**

v

**Stadt Wuppertal** (C-685/22),

and

**M.S.,**

**S.S.**

v

**Stadt Krefeld** (C-686/22),

JUDGMENT OF THE COURT (Fourth Chamber),

composed of C. Lycourgos (Rapporteur), President of the Chamber, O. Spineanu-Matei, J.-C. Bonichot, S. Rodin and L.S. Rossi, Judges,

Advocate General: M. Szpunar,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

- M.S. and S.S., by B. Steeger, Rechtsanwältin,
- Stadt Krefeld, by S. Wolf, acting as Agent,
- the German Government, by J. Möller and R. Kanitz, acting as Agents,
- the Estonian Government, by M. Kriisa, 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 14 December 2023,

gives the following

## **Judgment**

1 These references for a preliminary ruling concern the interpretation of Article 20 TFEU.

2 The requests have been made in three sets of proceedings between S.Ö., on the one hand, and Stadt Duisburg (City of Duisburg, Germany), on the other, N.Ö. and M.Ö., on the one hand, and Stadt Wuppertal (City of Wuppertal, Germany), on the other, and M.S. and S.S., on the one hand, and Stadt Krefeld (City of Krefeld, Germany), on the other, concerning the loss of German nationality of the applicants in those disputes.

## **Legal context**

### *International law*

3 The European Convention on Nationality, which was adopted on 6 November 1997 within the framework of the Council of Europe and entered into force on 1 March 2000 ('the Convention on Nationality'), was ratified by the Federal Republic of Germany on 11 May 2005.

4 Under the heading 'Loss of nationality *ex lege* or at the initiative of a State Party', Article 7 of the Convention on Nationality provides:

'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;

...

(e) lack of a genuine link between the State Party and a national habitually residing abroad;

...'

5 Under the heading 'Other possible cases of multiple nationality', Article 15(b) of that convention provides that the provisions of that convention are not to 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 loss of another nationality.

### ***European Union law***

6 Under Article 20 TFEU:

'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;

...'

### ***German law***

7 Paragraph 25 of the Staatsangehörigkeitsgesetz (Law on Nationality) in its consolidated version (*Bundesgesetzblatt*, Part III, No 102-1), as amended by Paragraph 1(7) of the Gesetz zur Reform des Staatsangehörigkeitsrechts (Law amending the Law on Nationality) of 15 July 1999 (BGBl. I, p. 161) ('the StAG'), in force since 1 January 2000 and applicable to the disputes in the main proceedings, states:

'(1) A German shall lose his or her nationality upon acquisition of foreign nationality if such acquisition occurs upon application by him or her or upon application by his or her legal representative, whereas the represented person shall suffer such loss only if the conditions for application for withdrawal under Paragraph 19 are met. The loss in accordance with the first sentence shall not take effect if a German acquires the nationality of another Member State of the

European Union, Switzerland or a State with which the Federal Republic of Germany has concluded a treaty under international law pursuant to Paragraph 12(3).

(2) Nationality shall not be lost by any person who, prior to acquisition of foreign nationality upon application by him or her, has received written permission from the competent authority to retain his or her nationality. ... In the decision on an application pursuant to the first sentence, the public and private interests shall be weighed up. In the case of an applicant who is habitually resident abroad, special consideration shall be given to whether he or she is able to furnish credible evidence of continuing ties with Germany.'

8 Paragraph 30(1) of the StAG is worded as follows:

'(1) The nationality authority shall determine the existence or non-existence of German nationality upon application if there is credible evidence of a legitimate interest. The determination shall be binding in all matters for which the existence or non-existence of German nationality has legal relevance. Where there is a public interest, the determination may be made of the authority's own motion.'

9 Paragraph 38 of the Gesetz über den Aufenthalt, die Erwerbstätigkeit und die Integration von Ausländern im Bundesgebiet (Law on the residence, employment and integration of foreign nationals in the Federal territory) of 30 July 2004 (BGBl. 2004 I, p. 1950) provides:

'(1) A former German shall be

1. granted a permanent residence card he or she had been habitually resident in Federal territory as a German for five years upon loss of German nationality.
2. granted a temporary residence permit if he or she had been habitually resident in Federal territory for at least one year upon loss of German nationality.

The application for a residence permit pursuant to the first sentence shall be made within six months of notification of loss of German nationality.

...

(2) A former German who is habitually resident abroad may be granted a temporary residence permit if he or she has a sufficient command of the German language.

(3) In special cases, the residence permit under subparagraphs 1 or 2 may be granted by way of derogation from Paragraph 5.

...'

### **The disputes in the main proceedings and the questions referred for a preliminary ruling**

#### ***Case C-684/22***

10 S.Ö., who was born in Türkiye in 1966, entered German territory in 1990. He is married and a father to three children. He acquired German nationality by naturalisation on 10 May 1999, and his Turkish nationality was withdrawn on 13 September 1999.

11 On 25 May 2018, when applying for a travel document for his son, S.Ö. disclosed that he had reacquired Turkish nationality.

12 Since the German authorities had expressed serious doubts as to whether his son possessed German nationality, on 25 April 2019 S.Ö. applied to the competent naturalisation authority to issue him with a certificate of nationality, in order to establish that he continued to hold German nationality. At a later date, S.Ö. moved to the area falling within the competence of the City of Duisburg.

13 By administrative police order of 13 September 2019, the City of Duisburg established, in accordance with Paragraph 30(1) of the StAG, that S.Ö. was no longer a German national. According to the City of Duisburg, the reacquisition of Turkish nationality had taken place after 1 January 2000 and, in accordance with point 2 of Paragraph 17(1) and the first sentence of Paragraph 25(1) of the StAG, resulted in an automatic loss of German nationality. It could have been otherwise only if the reacquisition of Turkish nationality had taken place before 31 December 1999, since the first sentence of Paragraph 25(1) of the StAG, in the version in force up to that date, provided that loss of German nationality was applicable only for Germans residing abroad. However, S.Ö. has not demonstrated that he reacquired Turkish nationality before that date.

14 S.Ö. brought an action against that order before the Verwaltungsgericht Düsseldorf (Administrative Court, Düsseldorf, Germany), namely the referring court.

#### *Case C-685/22*

15 A married couple, M.Ö. and N.Ö., of Turkish nationality, who were born in 1959 and 1970 respectively, entered German territory in 1974. They acquired German nationality by naturalisation on 27 August 1999, and their Turkish nationality was withdrawn on 2 September 1999.

16 On 1 September 2005, during an interview with the authorities of the City of Wuppertal, they indicated that they had reacquired Turkish nationality on 24 November 2000.

17 In that regard, they produced a certificate dated 31 August 2005 issued by the Turkish Consulate General, according to which they had applied for reacquisition of Turkish nationality on 2 September 1999 and reacquired it by order of the Council of Ministers of 24 November 2000.

18 By administrative police orders of 24 February 2021, in accordance with Paragraph 30(1) of the StAG, the City of Wuppertal established that M.Ö. and N.Ö. were no longer German nationals. According to the city authority, their reacquisition of Turkish nationality on 24 November 2000 had, in accordance with point 2 of Paragraph 17(1) and the first sentence of Paragraph 25(1) of the StAG, resulted in the automatic loss of German nationality. It could have been otherwise only if the reacquisition of Turkish nationality had taken place before 31 December 1999, since the first sentence of Paragraph 25(1) of the StAG, in the version in force up to that date, provided that loss of German nationality was applicable only for Germans residing abroad. However, M.Ö. and N.Ö. have not demonstrated that they reacquired Turkish nationality before that date.

19 M.Ö. and N.Ö. brought an action against those orders before the Verwaltungsgericht Düsseldorf (Administrative Court, Düsseldorf).

#### *Case C-686/22*

20 M.S. and S.S., a Turkish married couple, born in 1965 and 1971 respectively, entered German territory in 1981 and 1989 respectively. They acquired German nationality by naturalisation on 10 June 1999 and, subsequently, their Turkish nationality was withdrawn.

21 M.S. and S.S. applied to reacquire Turkish nationality after obtaining German nationality.

22 On 19 December 2017, M.S. and S.S. applied to the City of Krefeld for a declaration that they held German nationality.

23 By administrative police orders of 24 February 2021, in accordance with Paragraph 30(1) of the StAG, the City of Krefeld found that M.S. and S.S. were no longer German nationals. According to the city authority, their reacquisition of Turkish nationality had taken place after 1 January 2000 and had resulted, in accordance with point 2 of Paragraph 17(1) and the first sentence of Paragraph 25(1) of the StAG, in the automatic loss of German nationality. It could have been otherwise only if the reacquisition of Turkish nationality had taken place before 31 December 1999, since the first sentence of Paragraph 25(1) of the StAG, in the version in force up to that date, provided that loss of German nationality was applicable only for Germans residing abroad. However, M.S. and S.S. have not demonstrated that they reacquired Turkish nationality before that date.

24 M.S. and S.S. brought an action against those orders before the Verwaltungsgericht Düsseldorf (Administrative Court, Düsseldorf).

### *Questions referred for a preliminary ruling*

25 In these three joined cases, the referring court asks, first, whether the automatic loss of German nationality, provided for in the first sentence of Paragraph 25(1) of the StAG, is consistent with EU law.

26 It confirms, at the outset, that the version of Paragraph 25 of the StAG, which is applicable to the applicants in the main proceedings, is that in force from 1 January 2000, since they reacquired Turkish nationality after that date and the documents submitted by certain of them to demonstrate the opposite have no probative value. It also states that no permission to retain German nationality, referred to in the first sentence of Paragraph 25(2) of the StAG, was sought by the applicants in the main proceedings before they reacquired Turkish nationality.

27 In that regard, according to national case-law, the first sentence of Paragraph 25(1) of the StAG is consistent with EU law in so far as the person concerned may submit, pursuant to the first sentence of subparagraph 2 of that paragraph, an application for permission to retain German nationality, in the context of which an individual examination of the consequences of the loss of that nationality with regard to the situation of the person concerned is expressly provided for.

28 That said, the referring court has doubts as to such compliance. If no procedure for permission to retain German nationality, referred to in Paragraph 25(2), has been initiated, it follows from the provisions of Paragraph 25 that the loss of German nationality and, therefore, the loss of Union citizenship for persons who are not nationals of another Member State occurs automatically, without any individual examination.

29 The referring court states that German law makes no provision for an ancillary examination of the consequences of the loss of German nationality after it has taken place. In such a case, the

persons concerned would only be able to submit a new application for naturalisation for the purposes of acquiring German nationality without retroactive effect.

30 Secondly, while noting that, in accordance with the wording of Paragraph 25(2) of the StAG, an application for permission to retain German nationality provides an opportunity to take account of the requirements of EU law, the referring court states that the consequences of the loss of citizenship of the Union, in practice, are not examined by the administrative authorities or by the national courts. Permission to retain German nationality is granted only where there is a special interest in acquiring a foreign nationality while retaining German nationality. Thus, the consequences of the loss of German nationality, resulting in the loss of citizenship of the Union, are not examined in the light of the rights deriving from that status.

31 In those circumstances, the Verwaltungsgericht Düsseldorf (Administrative Court, Düsseldorf) decided to stay the proceedings in the three cases in the main proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

‘(1) Does Article 20 TFEU preclude a provision under which, in the case of voluntary acquisition of (non-privileged) nationality of a third country, nationality of the Member State and thus citizenship of the Union are lost *ex lege* where an individual examination of the consequences of the loss is conducted only if the foreign national concerned previously made an application for a retention permit and that application was approved prior to acquisition of the foreign nationality?’

(2) If [Question 1] is ... answered in the negative: Is Article 20 TFEU to be interpreted as meaning that, in the procedure for the grant of the retention permit, no conditions may be laid down as a result of which an individual assessment of the situation of the person concerned and that of his or her family with regard to the consequences of the loss of citizenship of the Union does not take place or is superseded by other requirements?’

32 By decision of the President of the Court of Justice of 7 December 2022, Cases C-684/22 to C-686/22 were joined for the purposes of the written and oral parts of the procedure, and of the judgment.

### **Consideration of the questions referred**

33 By its questions, which it is appropriate to examine together, the referring court asks, in essence, whether Article 20 TFEU must be interpreted as precluding legislation of a Member State which provides that, in the event of voluntary acquisition of the nationality of a third country, the nationality of that Member State is lost by operation of law, which entails, for persons who are not nationals of another Member State, the loss of citizenship of the Union, unless those persons obtain permission from the competent national authorities to retain their nationality before acquiring the nationality of a third country, following an individual examination of the situation of those persons, which takes into account the weighing of the public and private interests concerned.

34 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 5 September 2023, *Udlændinge- og Integrationsministeriet (Loss of Danish nationality)*, C-689/21, EU:C:2023:626, paragraph 28).

35 Article 20 TFEU confers on every individual who is a national of a Member State citizenship of the Union, which is destined to be the fundamental status of nationals of the Member States (judgments of 20 September 2001, *Grzelczyk*, C-184/99, EU:C:2001:458, paragraph 31, and of 5 September 2023, *Udlændinge- og Integrationsministeriet (Loss of Danish nationality)*, C-689/21, EU:C:2023:626, paragraph 29).

36 Accordingly, the situation of citizens of the Union who, like the applicants in the main proceedings, are nationals of one Member State only and who, by losing that nationality, are faced with losing the status conferred in 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, in exercising their competence in the field 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, and of 5 September 2023, *Udlændinge- og Integrationsministeriet (Loss of Danish nationality)*, C-689/21, EU:C:2023:626, paragraph 30).

37 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, and of 5 September 2023, *Udlændinge- og Integrationsministeriet (Loss of Danish nationality)*, C-689/21, EU:C:2023:626, paragraph 31).

38 In the exercise of its power to lay down the conditions for the acquisition and loss of its nationality, it is also legitimate for a Member State to take the view that holding multiple nationalities should be avoided (see, to that effect, judgment of 18 January 2022, *Wiener Landesregierung (Revocation of an assurance of naturalisation)*, C-118/20, EU:C:2022:34, paragraph 54).

39 In the present case, in accordance with Paragraph 25(1) of the StAG, German nationals are to lose their nationality when they voluntarily acquire the nationality of certain third countries. That provision also states that German nationality is not lost where a German national acquires, inter alia, the nationality of another Member State. As the German Government has pointed out, that provision is essentially intended to prevent persons from holding multiple nationalities.

40 The legitimacy, in principle, of that objective is borne out in Article 7(1)(a) of the Convention on Nationality, according to which 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, inter alia, in the case of voluntary acquisition of another nationality, and by Article 15(b) of that convention, which provides that the provisions of that convention are not to limit the right of a State Party to determine in its internal law whether the acquisition or retention of its nationality is subject to the renunciation or loss of another nationality (see, to that effect, judgment of 18 January 2022, *Wiener Landesregierung (Revocation of an assurance of naturalisation)*, C-118/20, EU:C:2022:34, paragraph 55).

41 It follows that EU law does not preclude, as a matter of principle, a Member State, in situations such as those referred to in Paragraph 25(1) of the StAG, from providing, for reasons of public interest, for the loss of its nationality by operation of law where its nationals voluntarily acquire the nationality of a third country, even if that loss entails loss, for the persons concerned, of their status as citizens of the Union.

42 However, having regard to the importance which primary EU law attaches to citizenship of the Union which, as has been pointed out in paragraph 34 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 5 September 2023, *Udlændinge- og Integrationsministeriet (Loss of Danish nationality)*, C-689/21, EU:C:2023:626, paragraph 38).

43 The Court has held that 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 (judgments of 12 March 2019, *Tjebbes and Others*, C-221/17, EU:C:2019:189, paragraph 41, and of 5 September 2023, *Udlændinge- og Integrationsministeriet (Loss of Danish nationality)*, C-689/21, EU:C:2023:626, paragraph 39).

44 It follows that, in situations in which the loss of the nationality of a Member State occurs by operation of law in the event of the voluntary acquisition of the nationality of a third country 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 that loss of nationality and, where appropriate, to enable those persons to retain their nationality or to recover it *ex tunc* (see, to that effect, judgments of 12 March 2019, *Tjebbes and Others*, C-221/17, EU:C:2019:189, paragraph 42, and of 5 September 2023, *Udlændinge- og Integrationsministeriet (Loss of Danish nationality)*, C-689/21, EU:C:2023:626, paragraph 40).

45 In the present case, it is apparent from the requests for a preliminary ruling that Paragraph 25(2) of the StAG provides that any person who, before acquiring the nationality of a third country, has obtained, at his or her request, written permission from the competent authority to retain his or her nationality does not lose his or her nationality. That provision adds that, when a decision is taken on such a request, public and private interests must be weighed up.

46 As the Advocate General observed, in essence, in point 58 of his Opinion, EU law does not preclude, as a matter of principle, a Member State from providing that the individual examination, in the light of the principle of proportionality, of the consequences of the loss of the nationality of a Member State in the light of EU law for the persons concerned is to be carried out in the specific context of an advance permission procedure, such as that provided for in Paragraph 25(2).

47 That said, in order to ensure observance of the rights that Union citizens derive from Article 20 TFEU, that procedure must actually allow that individual examination of proportionality to take place in accordance with the requirements of that article as interpreted by the Court in its case-law.

48 In that regard, in the first place, the referring court states that, in the context of that advance permission procedure, the practice of the administrative authorities, supported by national case-law, is not to examine the consequences, in the light of EU law, of the loss of German nationality of the person concerned, where that loss entails loss of citizenship of the Union. Permission to retain German nationality is granted only where there is a special interest in the acquisition of the nationality of a third country.

49 In a situation in which the competent authorities do not carry out that examination of proportionality or in which it is not clear from the reasons given in the decision of those authorities,

based on Paragraph 25(2) of the StAG, that that examination took place, it is for the national court hearing the case to carry out the same examination or to ensure that it is carried out by those authorities (see, to that effect, judgment of 5 September 2023, *Udlændinge- og Integrationsministeriet (Loss of Danish nationality)*, C-689/21, EU:C:2023:626, paragraph 53).

50 The examination in question must include an individual assessment of the situation of the person concerned and of that of his or her family in order to determine whether the consequences of losing German nationality, 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 (judgments of 12 March 2019, *Tjebbes and Others*, C-221/17, EU:C:2019:189, paragraph 44, and of 5 September 2023, *Udlændinge- og Integrationsministeriet (Loss of Danish nationality)*, C-689/21, EU:C:2023:626, paragraph 54).

51 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 of Fundamental Rights of the European Union ('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 applicable, in conjunction with the obligation to take into consideration the child's best interests, recognised in Article 24(2) of the Charter (judgments of 12 March 2019, *Tjebbes and Others*, C-221/17, EU:C:2019:189, paragraph 45, and of 5 September 2023, *Udlændinge- og Integrationsministeriet (Loss of Danish nationality)*, C-689/21, EU:C:2023:626, paragraph 55).

52 In the second place, it is apparent from the requests for a preliminary ruling that Paragraph 25(2) of the StAG requires that the person concerned has not acquired the nationality of a third country before applying to retain German nationality, and, as the case may be, being successful in the application.

53 In that regard, the Court has already held that Member States may require, on the basis of the principle of legal certainty, that an application to retain nationality be submitted to the competent authorities within a reasonable period (see, to that effect, judgment of 5 September 2023, *Udlændinge- og Integrationsministeriet (Loss of Danish nationality)*, C-689/21, EU:C:2023:626, paragraph 43).

54 As the Advocate General states in point 63 of his Opinion, the requirement that permission to retain nationality must be applied for and obtained before the acquisition of the nationality of a third country falls within the limits of a reasonable period, provided that, in the interest of the legal certainty which the Member States are entitled to protect, it does not prevent, in principle, the persons concerned from actually exercising their rights deriving from their status as citizens of the Union, in particular, the right entailing an individual examination by the competent authorities of the proportionality of the consequences of the loss of nationality, from the point of view of EU law.

55 It must be pointed out that, where a German national who is not a national of another Member State has voluntarily acquired the nationality of a third country while having previously failed to follow the procedure set out in Paragraph 25(2) of the StAG in order to apply for and obtain permission to retain German nationality, it is legitimate to consider that, on the date of that acquisition, he or she has demonstrated his or her intention no longer to be a citizen of the Union.

56 However, the Court has already held that, 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 (judgment of 5 September 2023, *Udlændinge- og Integrationsministeriet (Loss of Danish nationality)*, C-689/21, EU:C:2023:626, paragraph 48).

57 Thus, it is for the referring court to determine whether the applicants in the main proceedings were duly informed of the procedure laid down in Paragraph 25 of the StAG in force from 1 January 2000, which, according to that court, is applicable to them. To that end, that court will, first, have to take into account the fact that, before that date, those persons were required to renounce their Turkish nationality in order to acquire German nationality, which suggests that they were informed not only of the German legislation applicable to them before that date, but also, at the very least, of the fact that that legislation seeks to prevent the holding of multiple nationalities and, in particular, does not, in principle, permit German nationality to be held in addition to that of a third country.

58 Secondly, that court will have to take into account the context in which those persons applied for and then recovered Turkish nationality. It is apparent from the orders for reference that the applicants in the main proceedings sought to retain both Turkish and German nationality in accordance with the version of Paragraph 25 of the StAG applicable until 31 December 1999 for German nationals residing in Germany. Although, before that date, they renounced their Turkish nationality in order to obtain German nationality and then sought to recover their Turkish nationality, the referring court states that the latter nationality was again granted to them after that date.

59 In that regard, the applicants in the main proceedings in Case C-686/22 state in their written observations that they had no reason to apply for advance permission to retain German nationality before the reform of Paragraph 25 of the StAG and that, in any event, that reform was not clearly explained or brought to their attention.

60 In such a situation, as the Advocate General observed in point 71 of his Opinion, in view of the serious consequences pertaining to the loss of German nationality, which entails loss of citizenship of the Union, for the effective exercise of the rights which a Union citizen derives from Article 20 TFEU, the applicants in the main proceedings should have been placed in a position, possibly under transitional arrangements, effectively to initiate the advance permission procedure provided for in Paragraph 25(2) of the StAG, in order to retain German nationality.

61 In order to determine whether the applicants in the main proceedings were able actually to benefit from that procedure and from an individual examination of the consequences of the loss of German nationality in the light of EU law, the referring court must also take account of the dates on which they recovered Turkish nationality. It cannot be ruled out that, in situations where the date of recovery of that nationality is close to 1 January 2000, the date of entry into force of the reform of the procedure provided for in Paragraph 25 of the StAG, those applicants would find it impossible in practice to implement that procedure, since it requires them to apply for and obtain permission to retain German nationality before acquiring the nationality of a third country. In such a case, unlike persons who applied for the nationality of a third country after that date, the applicants were unable

to apply to retain German nationality and wait for the reply to that application before the authorities of the third country concerned granted their application.

62 It should be added that, if the referring court concludes that the applicants in the main proceedings were not in a position effectively to initiate the advance permission procedure to retain German nationality provided for in Paragraph 25(2) of the StAG and to benefit from an individual examination of the consequences of the loss of German nationality in the light of EU law, it must be possible 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 and, more generally, in proceedings for a declaration of nationality, the competent authorities must be in a position, where appropriate, to have the person concerned recover his or her nationality of the Member State *ex tunc* (see, to that effect, judgment of 12 March 2019, *Tjebbes and Others*, C-221/17, EU:C:2019:189, paragraph 42).

63 In the present case, it must be possible for the referring court to carry out such an ancillary examination, with the possibility of recovery of German nationality *ex tunc*, in the cases in the main proceedings, which concern actions against administrative police orders declaring that the persons concerned had lost their nationality and which were adopted in connection with applications for travel documents or proceedings for a declaration of nationality.

64 It must be stated, in that regard, that the relevant date to be taken into account for the purposes of examining the proportionality of the consequences of the loss of German nationality in the light of EU law is the date on which the person concerned obtained or recovered the nationality of a third country, since, in accordance with Paragraph 25(1) of the StAG, the time at which that nationality is acquired or recovered forms an integral part of the legitimate criteria which the Federal Republic of Germany has determined, and on which the loss of his or her nationality depends (see, to that effect, judgment of 5 September 2023, *Udlændinge- og Integrationsministeriet (Loss of Danish nationality)*, C-689/21, EU:C:2023:626, paragraph 56).

65 It follows from the foregoing considerations that Article 20 TFEU must be interpreted as not precluding legislation of a Member State which provides that, in the event of voluntary acquisition of the nationality of a third country, the nationality of that Member State is lost by operation of law, which entails, for persons who are not nationals of another Member State, the loss of citizenship of the Union, unless those persons obtain permission from the competent national authorities to retain their nationality before acquiring the nationality of a third country, following an individual examination of the situation of those persons, which takes into account the weighing of the public and private interests concerned. However, compatibility with EU law is subject to the condition that, first, those persons have had effective access, within a reasonable period, to the procedure for retaining nationality provided for by that legislation, and have been duly informed of that procedure, and, secondly, that that procedure includes an examination by the competent authorities of the proportionality of the consequences of the loss of that nationality in the light of EU law. Otherwise, those authorities and any courts seised must be able to carry out such an examination, as an ancillary issue, in the event of an application by the persons concerned for a travel document or any other document certifying their nationality or, as the case may be, in proceedings for the establishment of loss of nationality, and those authorities and courts must be able, where appropriate, to reinstate that nationality *ex tunc*.

## Costs

66 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 (Fourth Chamber) hereby rules:

**Article 20 TFEU must be interpreted as not precluding legislation of a Member State which provides that, in the event of voluntary acquisition of the nationality of a third country, the nationality of that Member State is lost by operation of law, which entails, for persons who are not nationals of another Member State, the loss of citizenship of the Union, unless those persons obtain permission from the competent national authorities to retain their nationality before acquiring the nationality of a third country, following an individual examination of the situation of those persons, which takes into account the weighing of the public and private interests concerned. However, compatibility with EU law is subject to the condition that, first, those persons have had effective access, within a reasonable period, to the procedure for retaining nationality provided for by that legislation, and have been duly informed of that procedure, and, secondly, that that procedure includes an examination by the competent authorities of the proportionality of the consequences of the loss of that nationality in the light of EU law. Otherwise, those authorities and any courts seised must be able to carry out such an examination, as an ancillary issue, in the event of an application by the persons concerned for a travel document or any other document certifying their nationality or, as the case may be, in proceedings for the establishment of loss of nationality, and those authorities and courts must be able, where appropriate, to reinstate that nationality *ex tunc*.**

[Signatures]

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\* Language of the case: German.