



15.12.2023

NOTICE TO MEMBERS

Subject: Petition No 0319/2023 by Mediha Piro Azer (Cypriot), on behalf of Kimliksizler - Αγνώστου Ταυτότητας - Uncredentialeds, signed by 675 other persons, on an alleged discrimination by the Republic of Cyprus concerning the granting of Cypriot citizenship in mixed marriages

1. Summary of petition

The petitioners complain that the Republic of Cyprus does not grant citizenship to the spouses and children of Cypriot citizens married with people from some third countries. They claim that such an application of citizenship law not only leads to discrimination among EU citizens regarding the rights derived from EU citizenship, but it is also a serious violation of human rights. They explain that, by not granting citizenship, the Republic of Cyprus discriminates in the implementation of its own laws and prevents the children and spouses from becoming EU citizens, thus depriving them of the right to free movement, the right to travel, the right to work and the right to education in the EU. They consider that this situation amounts to a violation of Articles 2, 9 and 10 of the Treaty on European Union and of the Race Equality Directive (Directive 2000/43/EC). Finally, they stress that this is in contradiction with Article 14 of the European Convention on Human Rights, which prohibits discrimination, and the additional protocol numbered 12.

2. Admissibility

Declared admissible on 21 June 2023. Information requested from Commission under Rule 227(6).

3. Commission reply, received on 15 December 2023

The petition concerns Cyprus' nationality laws regarding the acquisition of nationality based on descent and an alleged difference of treatment when evaluating the granting of nationality to the spouses and children of Cypriot citizens married to nationals of certain third countries.

According to settled case-law of the Court of Justice of the European Union, it is for each Member State, having due regard to international law, to lay down the conditions for the acquisition and loss of its nationality¹. In situations covered by EU law, Member States' rules in the sphere of nationality must, however, have due regard also to EU law².

In other words, the conditions and procedures for obtaining nationality of the Member States are regulated by the national law of the individual Member States, subject to due respect for EU law, including, where applicable, fundamental rights as provided for in the Charter of Fundamental Rights of the European Union.

It is thus for Cyprus to determine under what conditions Cypriot nationality can be acquired based on descent.

To date, the Court of Justice of the European Union has not yet had the opportunity to pronounce itself on the limits set by EU law as far as Member States' rules on the acquisition of nationality is concerned, other than that the competent national authorities must take into account the principle of proportionality also when seeking to revoke a previously given assurance as to the grant of the nationality of their Member State³.

The Commission is competent to intervene with regard to Member States' rules on the acquisition and loss of nationality only if they breach EU law.

EU Council Directive 2000/43/EC⁴ offers protection against discrimination on the ground of racial⁵ or ethnic origin in certain well-defined fields, namely in employment and vocational training, social protection including social security and healthcare, social advantages, education and access to and supply of goods and services, which are available to the public, including housing. It therefore does not regulate nationality law. Besides, discrimination based on nationality is not covered as such by the Directive.

The Commission remains fully committed to a comprehensive settlement of the Cyprus problem within the United Nations (UN) framework, on the basis of a bicomunal, bizonal federation with political equality, in accordance with the relevant UN Security Council resolutions and in line with the principles on which the EU is founded and the acquis. Such a settlement is undoubtedly the most effective way to address the various challenges facing Cyprus.

Conclusion

The conditions and procedures for obtaining nationality of the Member States are regulated

¹ See judgments of the Court of Justice of the European Union in Cases *Micheletti and Others v Delegación del Gobierno en Cantabria*, C-369/90, ECLI:EU:C:1992:295; *Kaur*, C-192/99, ECLI:EU:C:2001:106, para. 19; *Rottmann*, C-135/08, ECLI:EU:C:2010:104, para. 39; *Tjebbes and Others*, C-221/17, ECLI:EU:C:2019:189, para. 30; *V.M.A.*, C-490/20, ECLI:EU:C:2021:1008, para. 38; *Wiener Landesregierung*, C-118/20, ECLI:EU:C:2022:34, para. 37.

² C-135/08, *Rottmann*, para. 41 and 45; C-221/17, *Tjebbes and Others*, para. 32; *V.M.A.*, C-490/20, ECLI:EU:C:2021:1008, para. 38; C-118/20, *Wiener Landesregierung*, para. 37.

³ Case C-118/20, *Wiener Landesregierung*, ECLI:EU:C:2022:34.

⁴ Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, OJ L 180, 19.7.2000, p. 22–26.

⁵ The European Union rejects theories which attempt to determine the existence of separate human races. The use of the term 'racial origin' in the Directive does not imply an acceptance of such theories.

by the national law of the individual Member States, subject to due respect for EU law, including, where applicable, fundamental rights as provided under the Charter. This includes the rules governing the acquisition of nationality based on descent.