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Withdrawing nationality as a measure to combat terrorism: a human rights-compatible approach?

Reply to Recommendation¹: Recommendation 2145 (2019)
Committee of Ministers

1. The Committee of Ministers has examined with interest Parliamentary Assembly [Recommendation 2145 \(2019\)](#) entitled “Withdrawing nationality as a measure to combat terrorism: a human rights-compatible approach?”, which it has forwarded to the European Committee on Legal Co-operation (CDCJ), to the Council of Europe Committee on Counter-Terrorism (CDCT) and to the Steering Committee for Human Rights (CDDH), for information and possible comments.

2. The Committee of Ministers points out that withdrawing nationality may raise issues under Article 15 of the Universal Declaration on Human Rights (right to nationality) and Article 8 of the European Convention on Human Rights (right to respect for private and family life) and that the European Convention on Nationality (ETS No. 166) recognises the right to nationality and prohibits any arbitrary withdrawal. In addition, although the decision to grant or withdraw a person’s nationality is a sovereign one for each State to make, any decision to withdraw a person’s nationality must be lawful and must not have a discriminatory effect. Nationality must not be withdrawn as a measure to combat terrorism if the person thereby becomes stateless. The Committee of Ministers recalls that a stateless person means a person who is not considered as a national by any State under the operation of its law.² The withdrawal should also be accompanied by the other safeguards envisaged in the European Convention on Nationality.

3. The Committee of Ministers notes that the European Convention on Nationality provides a sufficient legal framework both for depriving a person of their nationality, as long as they have at least one other nationality (Article 7), and for protecting persons from being arbitrarily deprived of their nationality (Article 4). It encourages Council of Europe member States which have not already done so to consider signing and/or ratifying the Convention. It also notes that the Convention states that States Parties may provide for the loss of nationality where a person’s conduct is seriously prejudicial to the vital interests of the State (Article 7.1.d). Guidelines on the manner in which this provision is to be implemented by the States Parties might indeed be examined.

4. As for the Assembly’s recommendation 1.1, the Committee of Ministers notes that a comparative study on Council of Europe member States’ laws allowing for deprivation of nationality could serve as a basis for future discussions among member States on the usefulness of this measure as a way to prevent terrorism and on the legal problems that it may pose, as well as on possible alternatives to withdrawing nationality. This study could be part of the prevention activities of the Council of Europe Counter-Terrorism Strategy (2018-2022), and in particular of activity 3.1 concerning the collection of best practices with regard to de-radicalisation, disengagement and social reintegration. Any future guidelines as recommended by the Assembly in its recommendation 1.2 could, subsequently, be part of a broader set of recommendations to member States on de-radicalisation, disengagement and social reintegration. The Committee of Ministers will keep the Assembly informed of any developments in this area.

1. Adopted at the 1359th meeting of the Ministers’ Deputies (5 November 2019).

2. See Article 1 of the 1954 Convention relating to the Status of Stateless Persons and paragraph 33 of the Explanatory report to the European Convention on Nationality.

