

RECOMMENDATIONS

Draft legislative proposal on the amendment of the Netherlands Nationality Act to allow for the withdrawal of Dutch nationality in the interests of national security, February 2015

SUMMARY

By withdrawing Dutch nationality and automatically linking this to the designation as an undesirable alien the authorities deprive the persons involved from their access to a number of essential rights, including the right to freedom of movement and the active and passive right to vote.

The necessity of the proposed expansion of powers for the withdrawal of Dutch nationality embodied in the draft legislative proposal has not been demonstrated to an adequate extent, and there are serious doubts about the practicability and about the suitability of this measure for the objective it is designed to achieve.

The explanation of the criterion ‘affiliation with a Jihad terrorist organisation’ in the draft legislative proposal and the Explanatory Memorandum does not form a sufficiently clear and precise legal basis for the withdrawal of Dutch nationality.

The draft legislative proposal does not offer adequate legal protection. The court does not carry out a priori review of the withdrawal of Dutch nationality and the envisaged system of legal protection does not offer the person involved any truly effective legal remedy, as no provisions have been made for the effective participation of the person involved in administrative law proceedings.

The legislative proposal has a discriminatory effect. It results in a distinction between Dutch citizens who have or do not have dual nationality, with risks for the stigmatisation of groups of the population with an immigrant background, without providing sufficiently weighty reasons for making this distinction.