

A Comparative Human Rights Analysis of Deprivation of Citizenship as a Counterterrorism Instrument: An Evaluation of Belgium

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Abstract : In response to Islamic-inspired terrorism and the growing trend of foreign fighters, European governments are increasingly relying on the deprivation of citizenship as a security tool. This development fits within a broader securitization of immigration, where the terrorist threat is perceived as emanating from abroad. As a result, immigration law became more and more 'securitized'. The European migration crisis has reinforced this trend. This research evaluates the deprivation of citizenship from a human rights perspective. For this, the author selected four European countries for a comparative study: Belgium, France, the United Kingdom and Sweden. All these countries face similar social and security issues, vitalizing (the debate on) deprivation of citizenship as a counterterrorism tool. Yet, they adopt a very different approach on this: The United Kingdom positions itself on the repressive side of the spectrum. Sweden on the other hand, also 'securitized' its immigration policy after the recent terrorist hit in Stockholm but remains on the tolerant side of the spectrum. Belgium and France are situated in between. This contribution evaluates the deprivation of citizenship in Belgium. Belgian law has provided the possibility to strip someone of their Belgian citizenship since 1919. However, the provision long remained a dead letter. The 2015 Charlie Hebdo attacks in Paris sparked a series of legislative changes, elevating the deprivation measure to a key security tool in Belgian law. Yet, the measure raises profound human rights issues. Firstly, it infringes the right to private and family life. As provided by Article 8 (2) European Court of Human Right (ECHR), this right can be limited if necessary for national security and public safety. Serious questions can however be raised about the necessity for the national security of depriving an individual of its citizenship. Behavior giving rise to this measure will generally be governed by criminal law. From a security perspective, criminal detention will thus already provide in removing the individual from society. Moreover, simply stripping an individual of its citizenship and deporting them constitutes a failure of criminal law's responsibility to prosecute criminal behavior. Deprivation of citizenship is also discriminatory, because it differentiates, without a legitimate reason, between those liable to deprivation and those who are not. It thereby installs a secondary class of citizens, violating the European Court of Human Right's principle that no distinction can be tolerated between children on the basis of the status of their parents. If followed by expulsion, deprivation also seriously jeopardizes the right to life and prohibition of torture. This contribution explores the human rights consequences of citizenship deprivation as a security tool in Belgium. It also offers a critical view on its efficacy for protecting national security.

Keywords : Belgium, counterterrorism strategies, deprivation of citizenship, human rights, immigration law

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