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REDRAWING THE BOUNDARIES BETWEEN “US” AND “THEM”: DOES CITIZENSHIP ENHANCE INTEGRATION OR INCREASE EXCLUSION?

ABSTRACT

Since the beginning of the 21st century, revocation of citizenship policies against undesirable citizens have returned to the political agenda of many Western countries with surprising rapidity. For these reasons, the analysis moved not merely from the criteria for the acquisition of citizenship, but from the ways in which citizenship is involuntary lost. Indeed, it seemed interesting to analyze the functioning of a revocation measure, its impact, and its potential (un)justification in liberal societies, keeping in mind that a “punitive” sanction of this magnitude ultimately ends up eroding the essential core of the individual’s “right to have rights”. Through a comparative study of the citizenship legislation and jurisprudence on the topic developed in the United Kingdom and Italy, the aim is to answer a traditional question that is becoming increasingly pressing: up to what extent it is possible to guarantee the protection of individual’s fundamental rights in a context that considers security needs to be preponderant? Lastly, the possible intersections between the models of citizenship acquisition and the modalities of its revocation within the analyzed state legal systems are observed.

Keywords: *Revocation of Citizenship, National Security, Terrorism, Human Rights, Exclusion*

1. INTRODUCTION

The community of titular and potential titular of citizenship rights, traditionally identified and delimited by the term “citizenship”, is now experiencing unprecedented forms of (s)composition. It seems that citizenship legislations are structured in such a way as to exclude communities and limit rights in the context of contesting borders and national identity. Indeed, the perennial tension of citizenship as a status of equality as well as the concrete inequalities produced by nationality laws would explain the inclusion-exclusion dynamic of

individuals. Based on this pattern, the “opposite” of the citizen would be embodied by the “marginalized or excluded” person.¹

The facility with which states can adopt measures to deprive undesirable individuals of their nationality is changing radically.² Today it is possible to observe a trend towards the encouragement of citizenship revocation measures as an instrument for guaranteeing national security in a current context characterized by the crisis of multicultural policies in most of the liberal tradition countries and by the terrorism problem that, after 11 September 2001, has taken on global dimensions. In fact, in the early 2000s, two main factors contributed to the revival of the measure of withdrawal of citizenship in western legal systems. Firstly, frequent migration crises led to the introduction of new and stricter naturalization requirements within nationality laws, at the same time broadening the hypotheses of citizenship revocation. Secondly, the sharpening of the phenomenon of Islamist radicalization and the emergence of the figure of “foreign fighters” have been decisive. States’ fear of the terrorist threat has essentially left the revocation orders in a state of perpetual expansion throughout the West, and has depicted measures of particular severity, based on the view that citizenship is fully within the state domain and requires adherence to strict safeguards.

The approach to citizenship in the present study is based on the idea of citizenship as an instrument of differentiation rather than integration, of exclusion rather than inclusion. The key offered stems from the belief that the historical function of citizenship has been to separate and exacerbate differences between those who are “in” and those who remain – inevitably – “out”.

With reference to the methodology used, the present analysis considers two case studies as examples of contemporary liberal democracies in the Western world. The choice of the United Kingdom and Italy lies in the fact that these countries are considered, for different reasons, the archetypes of the two divergent models of granting citizenship, respectively: the “multicultural/pluralistic” model and the “ethnic-racial” model.

Specifically for the above reasons, this study examined the case of the United Kingdom, as it is significantly different from other models in continental Europe in view of the presence of multiple minorities rooted in the territory. In fact, the acquisition of British citizenship *iure soli* and *iure sanguinis* has been influenced

¹ Margiotta, C., *Cittadinanza*, in Caruso, C., Valentini, C., (eds.), *Grammatica del costituzionalismo*, il Mulino, Bologna 2021, p. 239-253, especially p. 242.

² See, *ex multis*, Honohan, I., *Just what’s wrong with losing citizenship? Examining revocation of citizenship from a non-domination perspective*, *Citizenship Studies*, Vol. 24(3), 2020, p. 355-370.

by the past of the British Empire.³On the other hand, Italy, anchored on the prevailing principle of “transmission” of citizenship *iure sanguinis*⁴, protects citizens by birth from the possibility of denationalization for security reasons, affecting only “acquired” citizens and producing a clear differentiation between citizens according to the way of citizenship acquisition. Here, moreover, in contrast to the United Kingdom, the ban on revocation appears to enjoy a constitutional status, according to the expansive interpretation of Article 22 of the Italian Constitution.⁵

2. THE CASE OF UNITED KINGDOM

In 2002, before any legislative amendment, the UK government presented a White Paper, *Secure Borders, Safe Haven*.⁶Accompanying this paper was the announcement that a set of new objectives to develop a policy would meet the needs of the country and the people arriving on the island and that would recognize the need for changes in citizenship, immigration and asylum sectors. The report presented in 2002 did not contain any comprehensive explanation of the actual motivations for this updating of the discipline in the above-mentioned subjects. However, it is highly probable that the sudden onset was linked to the fight against terrorism. Thus, on the basis of the White Paper *Secure Borders, Safe Haven* ushered in the adoption of a series of provisions aimed at progressively strengthening the discretionary power of the Secretary of State to revoke citizenship directed primarily at radicalized British citizens involved in terrorist acts.⁷

³ Porena, D., *Pregi e criticità dei modelli di cittadinanza multiculturale: il caso della Gran Bretagna*, in Conti, U. (ed.), *Elementi per una sociologia del terrorismo. Temi e prospettive di ricerca*, Rubbettino, Soveria Mannelli 2016, p. 105-112, especially p. 105.

⁴ Grosso, E., *Cittadinanza e territorio. Lo ius soli nel diritto comparato*, Editoriale scientifica, Napoli 2015, p. 52. The author refers to the fact that the predominant criterion for acquiring Italian citizenship is *ius sanguinis*, while *ius soli* is limited to “residual cases”. In fact, the only circumstances in which Italian citizenship is acquired *iure soli* are contained in Law no. 91/1992, art. 1, par. 1, letter b) and par. 2, and art. 4, par. 2.

⁵ Art. 22 Const.: «No person may be deprived for political reasons of legal capacity, citizenship or name».

⁶ Home Office, *Secure Borders, Safe Haven. Integration with Diversity in Modern Britain*. Presented to Parliament by the Secretary of State for the Home Department by Command of Her Majesty, February 2002: <https://assets.publishing.service.gov.uk/media/5a7ba528ed915d1311060959/cm5387.pdf>, 2 March, 2024.

⁷ Dicosola, M., *Il diritto alla cittadinanza: problemi e prospettive*, Maggioli Editore, Santarcangelo di Romagna 2022, p. 224.

The aforementioned goals outlined in the White Paper were turned into law later that year with the *Nationality, Immigration and Asylum Act 2002*⁸, which made a number of amendments to Section 40 of the 1981 *BNA*⁹ devoted precisely to the revocation of citizenship.

In particular, a major innovation was the extension of the Secretary of State's mandate for the Department of the Interior, who could henceforth deprive a person of citizenship if convinced that he or she had done something that seriously prejudiced the vital interests of the United Kingdom or a British overseas territory.¹⁰

Through the *Immigration, Asylum and Nationality Act 2006*¹¹, then, the United Kingdom introduced new amendments to the 1981 *BNA*, including new and broader powers to revoke citizenship. Although the law was proposed before the 2005 London attacks perpetrated by homegrown terrorists, its negotiation was probably influenced by the foreign fighters' attacks and the general increase of British citizens who were becoming radicalized.¹² In fact, shortly after the terrorist acts of 2005 and after declaring his intention to abandon all aspirations to ratify the 1997 Convention¹³, the British government has unveiled a new counterterrorism strategy with the aim of stripping citizenship from all those individuals with British nationality or dual citizenship involved in extremist actions. The main feature of the *Immigration, Asylum and Nationality Act* was related to the substitution of the test on the «vital interests» with one on the «conducive to the public good»¹⁴ in relation to citizenship revocation for misconduct or disloyalty. In addition, new amendments gave the Secretary of State broad power to withdraw the right of stay in the United Kingdom from any person whose exclusion was deemed to be precisely “serving the public good”. The clause contained no details on the level of proof required to make a revocation order. Indeed, it was enough for the Home Secretary to be «satisfied that deprivation

⁸ *Nationality, Immigration and Asylum Act 2002* (Royal assent: 7 November 2002).

⁹ *British Nationality Act*, 30 October 1981, whose main provisions took effect on January 1, 1983 by amending the *Immigration Act* of 1971.

¹⁰ *Ibid.*, Section 40, pt. (2): «the person has done anything seriously prejudicial to the vital interests of (a) the United Kingdom, or (b) a British overseas territory».

¹¹ *Immigration, Asylum and Nationality Act 2006* (Royal assent: 30 March 2006), par. 13.

¹² Crace, J., *Immigration, Asylum and Nationality Act 2006*, *The Guardian*, 19 January 2009, <https://www.theguardian.com/commentisfree/libertycentral/2009/jan/15/immigration-asylum-nationality-act>, 8 March, 2024.

¹³ *Immigration, Asylum and Nationality Bill*, Standing Committee, 8th and 7th session, 27 October, 2005.

¹⁴ Brown Prener, C., *Denationalisation and Its Discontents. Citizenship Revocation in the 21st Century: Legal, Political and Moral Implications*, Brill, Leiden-Boston 2023, p. 178.

[was] conducive to the public good»¹⁵, with no clarification about the types of misconduct and infidelities for which the Secretary of State could deem the revocation of citizenship satisfactory and favorable to the public security.

Later, the *Immigration Act 2014*¹⁶ made the third and most recent amendment to the 1981 *BNA* by carrying out an overhaul of the immigration system designed to remove key protections for Commonwealth citizens residing in the United Kingdom. In fact, the government reintroduced a provision under Section 40 of the British Nationality Act that allowed the revocation of citizenship of naturalized citizens, even if it involved statelessness.¹⁷ With the entry into force of the above-mentioned *Immigration Act 2014*, Subsection (4A) was inserted, which no longer required either the actual or timely acquisition of another nationality in order to legitimize such a revocation measure, thus succeeding in overcoming, albeit partially, the bastion of the prohibition against statelessness.¹⁸

2.1. Shamima Begum: „the ISIS bride“¹⁹

A proper illustration of both the gaps in the “reasonable grounds” test with regard to the deprivation of citizenship and some of the procedural implications arising from the lack of suspensive effect of an appeal was the case of Shamima Begum decided by the British Supreme Court.²⁰ The case began on the 19th of February 2019, when the British Secretary of State decided to strip this girl of her British nationality, obtained *iure soli*, on the basis that her return to the UK would be a reason for national security threat.²¹

¹⁵ *Immigration, Asylum and Nationality Act 2006*, par.13; section 56 *Deprivation of citizenship*, par. 1(2).

¹⁶ *Immigration Act 2014* (Royal assent: 14 May 2014), par. 22.

¹⁷ *Ibid.*, section 66; *BNA 1981*, section 40 (4A).

¹⁸ See Graziani, C., *La revoca della cittadinanza dinanzi la Corte Suprema del Regno Unito: fra profili sostanziali e garanzie procedurali*, DPCE online, n. 1/2021, p. 2719-2732, especially p. 2721.

¹⁹ Reference is made to the way Shamima Begum has been referred to by many newspapers, namely as the “ISIS bride,” see, for example, McDonald, A., ‘ISIS bride’ Shamima Begum loses appeal over loss of British citizenship,’ Politico, 22 February, 2023, <https://www.politico.eu/article/uk-isis-bride-shamima-begum-loses-appeal-over-loss-of-british-citizenship/>, 6 March, 2024.

²⁰ *Shamima Begum v. Secretary of State for the Home Department* [2021] UKSC 7, 26 February 2021, is the abridged name for three closely related proceedings being considered together before the Supreme Court of the United Kingdom: *R (on the application of Begum) v. Special Immigration Appeals Commission*; *R (on the application of Begum) v. Secretary of State for the Home Department*; *Begum v. Secretary of State for the Home Department*.

²¹ Dicosola, M., *La revoca della cittadinanza tra sicurezza nazionale e diritti. Note a margine del caso Shamima Begum*, Democrazia e Sicurezza-Nationality and Security Review, XI, n. 2/2021, pp. 161-191, especially p. 164.

The case concerned Mrs. Begum, a citizen of Bangladesh by descent, student born in London who, while still a minor, had left her home in Bethnal Green east London, in 2015²², and had moved to Syria for joining the Islamic State. After having embraced the struggle of this international paramilitary terrorist organization, she had married an ISIL fighter²³ «with her eyes open». ²⁴Precisely for these motivations, the girl’s intention to return to England in 2019 gave rise to a public debate concerning the returning *jihadists*. More specifically, it was debated whether Begum had been trafficked, whether state authorities had failed in their duty of protection, and whether she remained *de facto* stateless; all issues considered directly relevant to assessing the legitimacy of a revocation decision. In fact, the government considered using its powers under Section 40 of the 1981 *BNAct* in order to strip Begum of her citizenship status because her membership in ISIS was assessed as sufficient evidence to infer her radicalization that would pose a serious security risk to the country.²⁵

The question on the legitimacy of the revocation was a part of Begum’s claim in his trial in the UK court system that was eventually rejected by the UK Supreme Court on the 26th of February 2021.²⁶ In fact, Mrs. Begum first appealed to the Home Secretary requesting to be allowed returning to England in order to take part in the appeal proceedings initiated before the *Special Immigration Appeals Commission*²⁷, and subsequently, since the Home Secretary had rejected the entry request, she appealed the rejection again before the SIAC along with the denationalization decision.²⁸ Both the revocation order and the denial of permission to entry into the United Kingdom were therefore contested by the appellant while in Syria in three separate proceedings at first instance initially before the *Special Immigration Appeals Commission* and then the *Court of Appeal*

²² Sabbagh, D., *Shamima Begum a victim of trafficking when she left Britain for Syria, court told*, The Guardian, 24 October 2023: <https://www.theguardian.com/uk-news/2023/oct/24/shamima-begum-victim-of-trafficking-when-she-left-uk-for-syria-court-told>, 8 March, 2024.

²³ Dicosola, *op. cit.* note 21.

²⁴ Sandford, D., Rhoden-Paul, A., *Shamima Begum knew about IS when she joined, UK lawyer says*, BBC News, 24 November 2022. This article points out how the executive’s lawyers stated that Shamima Begum had joined the Islamic State “with her eyes open” in order to emphasize her guilt and her awareness of the consequences of this choice, <https://www.bbc.com/news/uk-63745251>, 7 March, 2024.

²⁵ Dicosola, *op. cit.* note 21, pp. 164-165.

²⁶ *Loc. cit.*

²⁷ *Shamina Begum v. Secretary of State for the Home Department*, SC/163/2019, SIAC, 7 February 2020.

²⁸ Graziani, *op. cit.* note 18, p. 2719.

*of England and Wales.*²⁹In particular, Begum claimed that the right to nationality as well as the fundamental rights of the person were violated.³⁰

There is one element of the *Shamina Begum* decision that is not insignificant and which focuses on the fact that the ancient Common law ties of subordination between the Crown and its subjects could have provided the elements of protection that were lacking in the legal framework in order to repatriate Begum. Therefore, the case became an issue of “subjecthood”³¹, meaning that the elements of protection and equity were lost and only the loyalty required of the subjects remained, with no guarantee of protection in return.

Concluding, five years after Shamima Begum’s British nationality was revoked, the *jihadist* bride’s long battle to return to England appeared to stall in 2023, after the SIAC ruled that although there was a «credible suspicion» that Begum had been trafficked for sexual exploitation in Syria, the assumption was «not sufficient» for her to win the appeal.³²

Having lost the appeal against the SIAC, however, Shamima Begum’s attorneys asked for a reversal of the Home Secretary’s decision before the Court of Appeals. Nevertheless, on the 23rd of February 2024, the Court of Appeals also rejected the charges³³ of Shamima Begum’s legal team and also ruled that the decision of citizenship withdrawing could be «harsh», but Begum had been in any case «the author of her own misfortune».³⁴

2.2. The most recent reforms

Probably in the wake of the events surrounding Shamima Begum, a new season of amendments to UK nationality legislation opened during 2022. In fact, the

²⁹ *Court of Appeal of England and Wales* or *Her Majesty’s Court of Appeal in England* or also *Court of Appeal* is the Court of Appeal based in London, one of the higher courts of England and Wales.

³⁰ Brown Prener, *op. cit.* note 14, p. 194-195.

³¹ Pougnet, R., *Citizenship Deprivation in the Courts: Unveiling States’ Constitutional Structures*, *European Constitutional Law Review*, Vol. 19(3), 2023, pp. 415-440, especially p. 438, coined the term “subjecthood-lite” to mark the fact that the entire case hinged on the issue of “subjecthood”.

³² Siddique, H., *Shamina Begum loses appeal against removal of British citizenship*, *The Guardian*, 22 February 2023: <https://www.theguardian.com/uk-news/2023/feb/22/shamina-begum-loses-appeal-removal-british-citizenship>, 9 March, 2024.

³³ *Shamina Begum v. Secretary of State for the Home Department*, [2024] EWCA Civ 152, 23 February, 2024.

³⁴ *Ibid.*, par. 138.

*Nationality and Borders Act 2022*³⁵, which originated from a draft law presented to Parliament in July 2021³⁶, in which a multitude of issues pertaining to citizenship, asylum, immigration, victims of slavery and human trafficking were addressed, has been approved and later became law on the 28th of April 2022. The most striking new feature is the introduction of the rule that the Secretary of State can “silently”³⁷ remove the British citizenship from dual nationals without prior notification, i.e., without any written communication that would guarantee the right of appeal. More specifically, under Section 10 of the *Nationality and Borders Act 2022*³⁸, Subsection 5(A) was inserted within Section 40 of the *British Nationality Act 1981*, relating to the revocation of citizenship, immediately after paragraph 5 on notifying the recipient of a revocation order. It is impressive how Subsection 5(A) introduced the possibility of removing British citizenship without notice.

This new clause indeed inaugurated a new and more flowery season of changes in the field of citizenship with manifestly restrictive implications toward the recipients of a revocation order and, at the same time, defined a broadening of the government’s discretionary powers regarding the granting of nationality.

3. THE CASE OF ITALY

The idea that the prohibition against the deprivation of citizenship for political reasons, under Article 22 of the Italian Constitution, as well as the recognition and protection of inviolable rights, under Article 2 Const., are extended to the individual, not only to the citizen, today is in crisis. In fact, the introduction of the provision according to which the loss of *status civitatis* could be a sanction for the commission of acts against the internal or international personality of the Italian state seems to oppose this long held concept.

More specifically, 2018 saw the adoption of a measure, known by the epithet “security decree” or also “Salvini decree”, Decree Law No. 113 of the 4th of October 2018³⁹, converted into law by Law No. 132 of the 1st of December 2018,

³⁵ *Nationality and Borders Act 2022* (Royal assent: 28 April 2022), par. 36.

³⁶ *Nationality and Borders Bill*, 141 2021-22, 6 July, 2021.

³⁷ See Siddique, H., *New bill quietly gives powers to remove British citizenship without notice*, The Guardian, 17 November 2021: <https://www.theguardian.com/politics/2021/nov/17/new-bill-quietly-gives-powers-to-remove-british-citizenship-without-notice>, 11 March, 2024.

³⁸ *Nationality and Borders Act 2022*, section 10, *Notice of decision to deprive a person of citizenship*.

³⁹ Decree-Law of 4 October 2018, No. 113 (G.U. n. 231 of 4 October 2018).

regarding immigration and public safety.⁴⁰ By far the most problematic and incisive innovation comes from Section 14(1)(d) of Decree Law No. 113/2018, which has inserted Section 10-*bis* into the framework of Citizenship Law No. 91/1992. This provision introduced for the first time since the Constitution entered into force the concept of “revocation” of citizenship addressed to those who had been convicted of acts related to terrorism.

Significantly, according to the same provision, Italian nationality may be withdrawn in the case of a final conviction for the crimes specified in Section 407, paragraph 2, letter a, No. 4, of the Code of Criminal Procedure, as well as for the crimes listed in Section 270-*ter* and 270-*quinquies*.², of the Criminal Code⁴¹: (a) to the foreigner who, upon reaching the age of eighteen years, can prove that he or she has resided legally without interruption on the soil of the Republic and who has manifested his or her intention to become an Italian citizen within one year of the aforementioned date pursuant to Section 4, paragraph 2; (b) to those who are married to an Italian citizen who has complied with the conditions set forth in Section 5; (c) to the foreigner who has been granted citizenship by a decree of the President of the Republic, if he or she reflects the requirements set down in Section 9. Revocation of citizenship shall be adopted, within three years after the judgment of conviction becomes final, by decree of the President of the Republic, upon the proposal of the Minister of the Interior.⁴²

⁴⁰ Law of 1 December, 2018, No. 132 «Conversione in legge, con modificazioni, del decreto-legge 4 ottobre 2018, n. 113» (G.U. n. 281 3 December 2018).

⁴¹ Section 10-*bis*, Law of 5 February 1992, No. 91. Namely: association for the purposes of terrorism and subversion of the democratic order (Penal Code, Section 270 *bis*); assistance to associates (Penal Code, Section 270 *ter*); attack against the head of government (Penal Code, Section 280); devastation, looting and massacre (Penal Code, Section 285); civil war (Penal Code, Section 286); kidnapping for the purposes of terrorism or subversion (Penal Code, Section 289 *bis*); political conspiracy by association (Criminal Code, Section 305); murder (Criminal Code, Section 422); offences committed for the purposes of terrorism or subversion of the constitutional order and punishable by law with five to ten years' imprisonment (Criminal Procedure Code, Section 407(2)(a)); reconstitution of subversive associations whose disbandment had been ordered (Criminal Code, Section 270(3)). These offences also include common, albeit particularly serious, conduct, i.e. criminal conspiracy in cases where arrest *in flagrante delicto* is mandatory (Criminal Code, Section 416 and Criminal Procedure Code, Section 380(2)(m)); mafia-type conspiracy (Criminal Code, Section 416 *bis*); kidnapping for the purpose of robbery or extortion (Criminal Code, Section 630); conspiracy for the purpose of illegal trafficking in narcotic drugs or psychotropic substances (Presidential Decree No. 309 of 1990, Section 74).

⁴² Section 10-*bis*, Law of 5 February 1992, No. 91.

3.1. Possible unconstitutionality of the provision introduced in 2018

Some scholars⁴³ have speculated that the provision introduced in 2018 might primarily conflict with the “negative” right to citizenship as enshrined in Article 22 of the Constitutional Charter, which in fact prevents a measure of citizenship deprivation on political grounds. More appropriately, denationalization could contradict what has emerged from the extensive interpretation of the prohibition against the withdrawal of nationality under which any mode of its revocation in consideration of the political views of the person concerned and the interests of the state at large would be unconstitutional.

More problematic is the reference to the principle of equality and the prohibition of discrimination based on personal conditions referred to in Article 3 of the Constitution, which guarantees Italian citizens equal treatment without distinction of political opinion.⁴⁴ Apparently, these prerogatives are violated by the denationalization measure introduced by the 2018 decree⁴⁵ that possess an inherent discriminatory component. In fact, this measure deals unreasonably differently with objectively similar situations by establishing that only citizenship acquired under Sections 4, paragraph 2, Section 5 and Section 9 of Law No. 91/1992 can be revoked. The withdrawal of the citizenship is applicable thus only in the comparisons of those who have become Italian citizen by means of a voluntary request, marriage or naturalization. On the contrary, those who are citizens *iure sanguinis*; those who were born in Italian territory, if they are children of unknown or stateless parents or if they are children of individuals unable to transmit their nationality according to the regulations of their state of origin; as well as those who have acquired citizenship through adoption by Italian parents or those who are descendants of Italian citizens (citizens by benefit of law) are excluded from this measure.

The described provision appears to create *de facto* two normatively and qualitatively different categories of citizenship: one acquired at birth, irrevocable,

⁴³ See, *ex multis*, Algotino, A., *Il decreto “sicurezza e immigrazione” (decreto legge n. 113 del 2018): estinzione del diritto di asilo, repressione del dissenso e disegualianza*, *Costituzionalismo.it*, n. 2/2018, pp. 167-199, especially p. 192; Dicosola, M., *Il diritto alla cittadinanza*, *op. cit.* note 7, p. 237; Ruotolo, M., *Brevi note sui possibili vizi formali e sostanziali del d.l. n. 113 del 2018 (c.d. decreto “sicurezza e immigrazione”)*, *Osservatorio costituzionale*, n. 3/2018, p. 173-176, especially p. 175.

⁴⁴ Art. 3(1) Const.: «Tutti i cittadini hanno pari dignità sociale e sono eguali davanti alla legge, senza distinzione di sesso, di razza, di lingua, di religione, di opinioni politiche, di condizioni personali e sociali».

⁴⁵ Section 14 par. 1, let. d), *Capo III Disposizioni in materia di cittadinanza*, Legislative decree No. 113/2018.

and another obtained because of a request/application, potentially revocable.⁴⁶In fact, the applicability of this disposal to certain categories of citizens, while excluding others, significantly calls into question the guarantee of the non-discrimination principle⁴⁷and seems to create two “types” of citizens. The status of all citizens belonging to the second category, as opposed to the first, is perpetually *sub iudice*, there being no time limit beyond which acquired citizenship could no longer be revoked.⁴⁸

In conclusion, from the analysis of the various profiles of unconstitutionality of the decree-law in question, it can be deduced how the right to citizenship is a right of exclusion since it divides individuals into two categories, citizens “by birth” and citizens “by application”, whose rights are unequal. It is certainly true that the characteristic of citizens is to benefit from a privileged status compared to foreigners, but it is also true that there still remains significant discrimination in the adoption process, content and rationale proper to the “security decree”.

3.2. The first circumstance of citizenship revocation due to terrorism

On the 27th of March 2019, for the first time ever in Italian republican history, then Interior Minister Matteo Salvini formally proposed a revocation order. Indeed, he forwarded to the Quirinale the letter with the decree to revoke the Italian nationality according to then newly introduced “security decree” against Abderrahim Moutaharrik, accused of terrorism offenses.

The protagonist of the case, dubbed “the ISIS boxer” because he was a former kickboxing champion, was born in Morocco in 1988, and became an Italian citizen in April 2015. A resident of Lecco with two children and a Moroccan wife,

⁴⁶ Bacis, D., *Esistono cittadini “di seconda classe”? Spunti di riflessione in chiave comparata a margine del d.l. n. 113/2018*, DPCE on line, n. 1/2019, p. 935-940, especially p. 939. On this issue, Bertolino, C., *Paradossi della cittadinanza nella legge di conversione del decreto legge c.d. “Sicurezza”*, federalismi.it, n. 3/2019, p. 1-9, in particular at p. 7 the author states that “shortcomings” are evident.

⁴⁷ Dicosola, *op. cit.* note 7, p. 238. Dicosola additionally notes on p. 257 that, like Italy, citizenship revocation measures are reserved for individuals who obtained citizenship after birth with similar discriminatory effects in Belgium, Cyprus, Finland, France, Ireland, Malta and the Netherlands.

⁴⁸ Resuming the status distinction made by Curreri, S., *Prime considerazioni sui profili d’incostituzionalità del decreto legge n. 113/2018 (c.d. “decreto sicurezza”)*, federalismi.it, n. 22/2018, pp. 1-14, especially p. 13. It must be consider the similar conclusions drawn by several authors, *ex multis*, Algostino, A., *Il decreto “sicurezza e immigrazione”*, *op. cit.* note 43, p. 191; Calvo, M., *Cittadini per sempre vs. cittadini eternamente sub iudice*, Dirittifondamentali.it, n. 1/2019, p. 1-28, especially p. 11-12.

Moutaharrik was intercepted planning an attack on sensitive targets, including the Vatican, during the Easter week of 2020.⁴⁹

More specifically, in February 2017, “the ISIS boxer” was sentenced to six years in prison on charges of association for the purpose of terrorism, instead his wife, Salma Bencharki, to five years in prison.⁵⁰ The order for the application of the precautionary measure of custody in prison had as its object the Islamist radicalization of the Italian citizen of Moroccan descent and the organization of the departure of his family nucleus for the purpose of affiliation with the Islamic State.⁵¹ Therefore, the judgement was based on the result of telephone and environmental interception activities that revealed an indication of “extreme alarm for state security and, in any case, for international security” (in Italian: «estremo allarme per la sicurezza dello Stato e, comunque, per la sicurezza internazionale») consisting of the “call to arms”, i.e. *tazkia*.⁵²

Subsequently, on the 13th of August 2019, the Lecco Police Department adopted a measure of immediate removal from the territory of the Republic at the proposal of the Minister of the Interior against the 29-year-old woman of Moroccan origin, wife of the kickboxer. At the same time, Moutaharrik’s spouse was notified of the revocation of her Italian citizenship ordered by decree of the Head of State, pursuant to Section 14(1)(d) of d.l. 113/2018⁵³. Therefore, the denationalization followed the *res judicata* sentence of six years’ imprisonment.⁵⁴

The case examined inherent in the adoption of the measure of revocation of citizenship, the first of its kind in the Italian history, demonstrates how Italy, after introducing the possibility of denationalization in 2018, has also taken care to

⁴⁹ La Repubblica, *Viminale: “Via la cittadinanza al pugile dell’Isis”. Prima richiesta in Italia, deciderà il Quirinale*, 22 March, 2019, https://www.repubblica.it/cronaca/2019/03/22/news/revoca_cittadinanza-222216477/, 15 March 2024.

⁵⁰ Messina, M., *Terrorismo, sei anni di carcere al campione marocchino di kickboxing arrestato in Italia*, La Stampa, 14 February 2017: <https://www.lastampa.it/cronaca/2017/02/14/news/terrorismo-sei-anni-di-carcere-al-campione-marocchino-di-kickboxing-arrestato-in-italia-1.34653634/>, 22 March 2024.

⁵¹ Tribunale di Milano, Giudice per le indagini preliminari, *Ordinanza di applicazione della misura cautelare della custodia in carcere*, proceeding No. 1489/2016 Mod. 21 <https://media.laregione.ch/files/domains/laregione.ch/docs/4bk4/9skz.pdf>, p. 2.

⁵² *Ibid.*, p. 6.

⁵³ Questura di Lecco, *Associazione con finalità di terrorismo: espulsa dall’Italia e rimpatriata in Marocco*, 27 August, 2019.

⁵⁴ Ministero dell’Interno, 3 September, 2019: <https://www.interno.gov.it/it>, 16 March, 2024.

implement it immediately, essentially following a trend that has emerged for some time on the European and non-European continent.⁵⁵

4. COMPARISON BETWEEN REVOCATION INSTITUTIONS

In terms of comparison, the United Kingdom is distinguished by the particular extent of the state government's power in disposing of the power to revoke citizenship and, symmetrically, by the reduced guarantees reserved to the individual who is the recipient, with specific reference to the right to citizenship. Thus, Section 40 of the *British Nationality Act 1981*, as amended in 2002, 2006, 2014, and 2022, is to date one of the most problematic provisions on denationalizationsince it does not seem to meet the standards, albeit mild, imposed by the International Law. Most perplexing is this law's attribution of wide discretion to the Secretary of State, whocan adopt a measure depriving a person of citizenship based on his speculations.

In addition, the introduction of the rules whereby citizenship can only be deprived to naturalized citizens even if they later become stateless is not exempt from criticism. More recently, the entry into force of the *Nationality and Borders Act 2022*introduced the possibility that a revocation order can even have no previous notification. The new provision has therefore raised numerous doubts as to the definition of an unprecedented power to revoke citizenship almost secretly, without the need for any prior communication, and which effectively results in the denial of the right to appeal for those affected.

The British Supreme Court, after some initial attempts to set the right to citizenship against denationalization powers, definitively upheld its constitutionality, holding that the right to citizenship could be balanced against the public interest in national security. The majority of citizenship revocation cases in the United Kingdom have given prominence to the relevant legal standards of jurisdiction, access to the courts and statelessness, rather than a thorough assessment of the facts and merits of the case. From this perspective, the Supreme Court's major rulings on this issue focused more on the legal framework than on fundamental rights.The abovementioned legal formalism was evident in the Supreme Court's decision on

⁵⁵ Raimondo, F., *Il privilegio della cittadinanza: la revoca come strumento di contrasto al terrorismo. La riforma nel contesto europeo*, Forum di Quaderni costituzionali, n. 2/2019, p. 1-4, especially p. 1. The author highlighted how Italy has followed the path of other European states and countries outside Europe, such as Australia and New Zealand.

the famous case of Shamima Begum⁵⁶, the student stripped of her British citizenship in 2019 for leaving the country, heading to Syria, and embracing the cause of the Islamic State. The question is wrapping itself around a long and complex appeal that was defined by the SIAC on 22 February 2023 as «a case of great concern and difficulty».⁵⁷On this occasion, the SIAC ruled that, although there was a suspicion that Begum had been recruited and was a victim of human trafficking for the purpose of sexual exploitation, the fact was not deemed “sufficient” for the Secretary of State’s decision to revoke her British citizenship to be unlawful.

In Italy, in the memory of the dramatic abuses perpetrated during the interlude of the fascist regime, the ban on the revocation of citizenship for political reasons enjoys constitutional status. However, Section 14(1)(d) of Decree-Law No. 113/2018⁵⁸ introduced a form of citizenship revocation on the basis of restrictive interpretations of constitutional provisions, with the consequence of concretely weakening the effects of the constitutional dictate.⁵⁹Section 10-*bis* of Italian Nationality Law No. 91/1992, in addition to raising doubts of compatibility with Article 22 of the Constitution on the prohibition of being deprived of citizenship for political reasons, appears to be in conflict with the principle of equality and the prohibition of discrimination on the basis of personal conditions, as set out in Article 3 of the same Constitution. In fact, Section 10-*bis* introduced new possibilities to revoke citizenship by drawing a distinction between citizens *iure sanguinis*, whose citizenship cannot be revoked, and those who have acquired citizenship after birth, whose status is instead flexible, in the event that they commit the offences listed in the same provision.

In the Italian case, it can be observed a similarity with the British system, more precisely with Section 66 of the *Immigration Act 2014*, in the part, which provides that the Home Secretary may invoke the revocation order when the subject constitutes a serious prejudice to the vital interests of the State.

Nevertheless, there are discrepancies. In the final analysis, the revocation of citizenship in the United Kingdom is ordered on the exclusive initiative of the British Secretary of State based on discretionary suppositions not supported by a measure of the judicial authority, whereas the Italian Minister of the Interior can

⁵⁶ *Shamima Begum v. Secretary of State for the Home Department* [2021] UKSC 7, 26 February, 2021.

⁵⁷ *Begum v. Secretary of State for the Home Department*, SC/163/2019, SIAC, 22 February, 2023, par. 210.

⁵⁸ Decree-Law of 4 October, 2018, No. 113, (G.U. n. 231 of 4 October, 2018).

⁵⁹ Dicosola, M., *Da cittadini a stranieri. Quali garanzie per il diritto alla cittadinanza?*, DPCE online, n. 3/2023, p. 2579-2596, especially p. 2589- 2590.

only act following a definitive conviction which has become final. It must be considered, however, that a discretion similar to that of the British Home Secretary’s power of revocation is not alien to the Italian Minister of the Interior, who may discretionally choose the cases in which to adopt that measure.⁶⁰

Moreover, the peculiarity of the 2018 “Salvini decree” and Section 40 of the 1981 *BNA* lies in creating statelessness situations since a revocation order is not limited to dual nationals.

Between the two countries examined in this study, Italy is the most likely to target “non-blood” citizens while granting favorable treatment, inherently discriminatory, to *pleno iure* citizens. In contrast to Italy, which protects *iure sanguinis* citizens from the possibility of being denationalized, the UK can revoke citizenship even from citizens “by birth”, as happened in the case of Shamina Begum, a British citizen by *ius soli*. Finally, the comparison with respect to the institution of the withdrawal of nationality has shown that the legal system that is furthest from respecting the principles of the International Law is the UK, since the discretionary power of revocation does not seem comparable to the Italian legal system. It is also true that, with respect to the prohibition in the International Law of arbitrary deprivation of nationality and, in general, of the reduction of statelessness, Italian legislation does not appear to meet entirely these standards either. Although the 1981 *BNA* is the most problematic, the nationality revocation provisions of Italy and UK seem to have vague language that risks punishing unpredictable behavior. With regard to procedural safeguards, it appears that the laws place a low burden of proof on governments for both the alleged conduct justifying denationalization and the prohibition on rendering individuals stateless.

4.1. The influence of nationality acquisition models

The results above-described lead to significant reflection on the possible “contamination” of the ways in which individual countries choose to revoke citizenship and the models of citizenship acquisition followed, as well as on the possible indirect proportionality between the requirements for obtaining *status civitatis* and the denationalization criteria. In other words, is it possible to hypothesize that states, which set stringent requirements for the acquisition of nationality, such as passing a citizenship test with a high level of linguistic knowledge, then follow more flexible ways of revoking it, and vice versa?

⁶⁰ Bacis, *op. cit.* note 46, p. 935-940.

In this regard, it seems interesting to summarize the historical-political events within the framework of which the citizenship legislations of the United Kingdom and Italy were formulated.

The British model appears markedly different from other continental European models in view of the presence of multiple minorities, born *inter alia* because of the vast dominions of the British Empire, who make up a multi-ethnic and multi-cultural tissue with a numerical consistency of aliens sometimes greater than that of the original indigenous national group.⁶¹ Thus, on the evolutionary choices regarding the British nationality, the “weight of imperial heritage”⁶² and the consequent desire to build a nation by embracing different ethnicities, without any intention to encroach upon them, cannot be overlooked.⁶³

Indeed, the United Kingdom currently boasts a traditionally liberal discipline in immigration and citizenship. This was made possible by the fact that, following the Second World War, the idea of citizenship in the “national” sense replaced the imperial citizenship concept of the *civis britannicus sum*⁶⁴ dominant at that period, which entailed the need to preserve the spirit of *Britishness* among the peoples of the Commonwealth.⁶⁵ Therefore, the *British Nationality Act 1981* currently in force, albeit amended, was the product of a shift in the issue of nationality from the imperial to the national level. Moreover, this Act resulted from the perceived need to create a common status for all citizens of the United Kingdom that was distinct from that of former colonies.⁶⁶

The British pluralistic and liberal tradition has shaped the granting of the British nationality according to a model defined by doctrine as “pluralistic” and “inclusive”, or “multicultural”⁶⁷, since integration is seen as a consequence of citizenship already achieved. In fact, the latter would be an instrument to reduce the areas of social and cultural marginalization and promote peaceful coexistence within society.⁶⁸ The UK has therefore built its nationality archetypal by facilitating the preservation and growth of the different ethnic-cultural identities present

⁶¹ Porena, *Pregi e criticità dei modelli di cittadinanza multiculturale*, op. cit. note 3, p. 105.

⁶² Porena, D., *Il problema della cittadinanza. Diritti, sovranità e democrazia*, Giappichelli, Torino 2011, p. 24.

⁶³ Joppke, C., *Immigration and the Nation-State. The United States, Germany and Great Britain*, Oxford University Press, New York 1999, p. 250-251.

⁶⁴ Porena, *Il problema della cittadinanza*, op. cit. note 62, p. 29.

⁶⁵ Milani, G., *Cittadini jure linguae. Test linguistici e cittadinanza in Europa*, Giuffrè, Milano 2017, p. 290.

⁶⁶ *Ibid.*, p. 294.

⁶⁷ Porena, op. cit. note 3, pp. 107-108.

⁶⁸ *Loc. cit.*

among its population.⁶⁹This approach has favored more flexible and less strict naturalization policies aimed at overcoming situations of discrimination.

British nationality in the current legal framework can be acquired through three ways: *iure soli*, *iure sanguinis* or by naturalization, whose residence time is shortened as it amounts to five years.⁷⁰

With regard to Italy, on the other hand, an ethnic-racial concept can be found in the principles governing the Italian nationality. In fact, within the Law of 5 February 1992, No. 91, *Nuove norme sulla cittadinanza*, there seems to emerge the idea that citizenship is not acquired, but rather transmitted “through heredity”, neglecting in fact the link with the territory, therefore with the community of co-citizens and with the national culture.⁷¹Thus, the identity and patriarchal element, which has permeated the original approach since the pre-unification codifications, seems to have been maintained despite the various changes that have taken place recently.⁷²For this reason, even in the current system, the criterion of transmission of citizenship *iure sanguinis* prevails and birth on the soil of the Italian Republic is a residual principle in relation to it.

Therefore, as far as the acquisition of the Italian *civitatis status* is concerned, there have not been any major innovations in the last thirty years, apart from some modernization measures, despite the fact that the migratory balance has reversed.⁷³Indeed, at a time when the Italian Republic began to welcome a considerable number of immigrants from other continents, there was a need to adapt and update the nationality act.⁷⁴More concretely, in relation to the stable presence of immigrants in the territory, alongside the principle of *ius sanguinis*, rules linked to birth in the territory and residence were introduced. Therefore, a profound process of «de-ethnicisation»⁷⁵ should have been developed. By contrast, Italy still seems shortsighted when faced with the need to change the requirements for access to its citizenship considering the new situation on Italian territory. For these reasons, Italy displays considerable rigidity in the way citizenship is acquired.⁷⁶

⁶⁹ *Ibid.*, p. 108.

⁷⁰ Porena, D., *Il problema della cittadinanza*, op. cit. note 62, p. 32.

⁷¹ Porena, D., *C'è spazio anche in Italia per una concezione “culturalista” della cittadinanza? Brevi profili comparatistici e spunti di riflessione in vista di una revisione della legislazione nazionale*, federalismi.it, n. 2/2012, p. 1-24, see p. 18.

⁷² *Ibid.*, p. 16-17.

⁷³ Porena, D., *Il problema della cittadinanza*, op. cit. note 62, p. 189-190.

⁷⁴ This change in migration flow in Italy is well described in Milani, G., *Cittadinanza e integrazione. L'influenza del diritto comparato sulla disciplina italiana e sulle proposte di riforma*, federalismi.it, n.4/2018, pp. 2-22.

⁷⁵ Margiotta, op cit. note 1, p. 245.

⁷⁶ Gatti, A., *Forme e contenuti delle nuove cittadinanze: una prospettiva di diritto comparato*, in Di Stasi, A., Baruffi, M. C., Panella, L. (eds.), *Cittadinanza europea e*

Italy can be studied as a kind of archetype of the models structured around the concept of “ethnic” citizenship.⁷⁷ The approach to nationality is restrictive; in fact, the provisions regulating the acquisition of Italian nationality and, in particular, the rules on the language skills that the individual must demonstrate are the result of an approach that considers the *status civitatis* as a privilege and a prize to be achieved.

In the face of legislation that tends to hinder the acquisition of citizenship, only weak forms of socio-cultural inclusion of the citizen candidate are provided for. It would thus seem that the legal system is uninterested in providing integration paths for the applicant, almost as if it considered the very difficulties of access to the naturalization procedure as a test to assess the applicant's actual predisposition to integration.⁷⁸

In view of that, it may be stated that Law No. 91/1992 proves to be, at the same time, too rigid and not very updated. In fact, one of the few incisive interventions in recent years was the introduction of Section 9.1, which made both naturalization *iure matrimonii* (under Section 5) and naturalization after years of legal residence on Italian territory (established by Section 9) subordinate to a good Italian language proficiency (B1 CEFR level). This intervention was proposed within the same “security decree” No. 113/2018 that introduced Section 10-*bis* inserting the possibility of revocation of Italian nationality due to terrorist conduct. More specifically, a broader citizenship reform introduced stricter nationality provisions.

Consequently, it clearly emerges in this context how the same *ratio* consisting of the desire to preserve ethnic identity and *italianità*⁷⁹ characterizes denaturalization

cittadinanza nazionale. Sviluppi normativi e approdi giurisprudenziali, Editoriale scientifica, Napoli 2023, p. 99-132, especially p. 123.

⁷⁷ Lippolis, V., *Cittadinanza e identità nazionale*, in *Fondazione Magna Carta*, 1 December, 2009: <https://fondazionemagnacarta.it/2009/12/01/cittadinanza-e-identita-nazionale/>, 17 March 2024. The author links the way citizenship is conferred to belonging to the same ethnic or racial community, in the view that individuals are the product of the nation. See also Porena, D., *Il problema della cittadinanza*, *op. cit.* note 62, p. 232.

⁷⁸ Gatti, *op. cit.* note 76, p. 126.

⁷⁹ Meaning “Italian-ness”, this word indicates the belonging to the Italian civilization, history, culture, and language, especially the consciousness of this belonging. Mirko Tremaglia was considered the representative of the “italianità” (see Ministero degli Affari Esteri e della Cooperazione Internazionale 2012). He was the Minister for Italians in the world who cared about the “cultural-historical” dimension of Italians, so much so that he cultivated with great zeal the memory especially of the sacrifices that Italians had to face in order to establish themselves. The memory of the events that saw the rooting of Italian communities in so many countries, keeping the link with the country of origin, in Tremaglia’s eyes was fundamental to strengthen the sense of identity and civic consciousness of the Italians themselves in their homeland

and naturalization. This approach is clearly dictated by the distinction of citizens into two classes with preferential treatment reserved for citizens “by blood” over those who, having acquired citizenship in the course of their lives and not having inherited it at birth, may lose it involuntarily for reasons of public security.

Compared to Italy, which recently introduced rules on the revocation of citizenship, the United Kingdom had long since provided for nationality requirements linked to an adequate knowledge of English or the successful completion of an examination on the knowledge of UK’s institutions, history, culture, political and economic system and, more generally, the fundamental principles of the country.⁸⁰

The United Kingdom’s belonging to the multicultural model, hence the tendency to include ethnic minorities through non-restrictive legislation, seems, however, to have produced a sort of “boomerang effect” whereby this country has used, from 2002 to the present day, several amendments aimed at progressively strengthening the discretionary power to revoke citizenship. This power, proper to the Secretary of State is broader than the one of the Italian Minister of the Interior, and it is mainly directed towards radicalized British citizens involved in terrorist acts. As a result, the British judges take an adamant position in considering legitimate the Home Secretary’s decision to deprive Shamina Begum of British nationality, despite the various appeals lodged by the young woman from 2019 to 2024, revealing a focus on legal formalism, rather than respect for the principles protected by the ECtHR.

Italy, on the other hand, seems to have adopted a different stance, which, on the contrary, belongs to the ethnic model of granting citizenship and has extremely rigid rules for the acquisition of Italian citizenship, introduced mainly through the “security decree”. It is true that in the provisions on the deprivation of Italian citizenship, a discriminatory element clearly emerges against “non-blood” citizens, but it is also true that the cases in which citizenship can be revoked as a punishment for terrorist actions are circumscribed.

From the comparative analysis, therefore, with respect to the adherence to a specific model for the acquisition of nationality, the possibilities of citizenship revocation are placed in a diametrically opposed position. On this view, restrictive requirements for the acquisition of nationality would correspond to a lower propensity to revoke it. Conversely, the provision of more flexible criteria for the acquisition of nationality would make denationalization easier. Thus, evaluations

⁸⁰ See the *life in the UK test*.

concerning the revocation of citizenship are today certainly influenced by the parallel moment of granting citizenship.

5. CONSLUSION: WITHDRAWAL OF CITIZENSHIP AS A MEANS OF DEFENSE AGAINST TERRORISM OR AS A WAY TO RESTORE BORDERS?

Withdrawal of citizenship as a sanction against radicalized citizens is undoubtedly a legitimate aim for states, which have the power to deprive individuals who act in a manner detrimental to the interests of the country of their citizenship. Indeed, the European Court of Human Rights has specifically noted⁸¹ how terrorist violence constitutes a serious threat to human rights. The ECtHR is indeed careful not to underestimate the extent of the danger posed by terrorism and the threat it poses to society. Consequently, the European Court of Human Rights considers it legitimate, in the face of such a threat, for States Parties to take a firm stance against those who contribute to terrorist acts. However, among the possible measures to fight terrorism, the revocation of citizenship is characterized by the particular gravity concerning the violation of the rights of the individual who is its target.

Following the rise of ISIS, it appears that an unprecedented form of banishment has reappeared. This is the case of the UK's citizenship deprivation system against people suspected of involvement in ISIS, without a criminal trial, or in any case with weak judicial enquiry and exceptionally low standards of proof. In reconstructing the function of denationalization in the UK, it seems evident a reference to a kind of ostracism, a *sui generis* practice of regulated exclusion of members of a community, by which the Athenian political power could decide to send certain citizens into exile as a means of constructing and reinforcing both state power and the norms of citizenship.⁸² This form of exclusion occurred where the behavior of these individuals was, according to common opinion, seriously contrary to the public interest in the protection of the state, but also such as to render the individual “unworthy” of belonging to the people.⁸³

Furthermore, it is possible to observe a “tendency to revoke” naturalization proceedings for reasons of public order that has taken hold in many western legal

⁸¹ European Court of Human Rights (ECtHR), *Said Abdul Salam Mubarak v. Denmark*, 74411/16, 22 January, 2019, pt. 44.

⁸² Gray, B., *From exile of citizens to deportation of non-citizens: ancient Greece as a mirror to illuminate a modern transition*, Citizenship Studies, Vol. 15(5), 2011, p. 565-582.

⁸³ For an in-depth analysis, see Forsdyke, S., *Exile, ostracism, and democracy: the politics of expulsion in ancient Greece*, Princeton University Press, Princeton 2005.

systems, apparently in response to the recruitment policies of *jihadist* terrorism, although it would sometimes seem to be a measure with a more political and symbolic valence than of a punitive nature. This statement gives the impression to fit the Italian case. In fact, the Minister of the Interior, using the measure of revocation against those who have acquired Italian citizenship during their life and have not inherited it by birth, does not seem to adequately solve the problem of affiliation to the Islamic State. For this reason, it could happen that an Italian citizen by birth perpetrates terrorist attacks in the national territory. The danger or threat to the system is therefore not effectively removed. On the contrary, what matters is answering the question: what would make denationalization compatible with the Italian legal system from the point of view of constitutionality?

This study shows the prevalence in the legislations of the countries analyzed of an exclusionary approach in the discipline of denationalization and a use of citizenship for defensive purposes with respect to the migration phenomenon. In particular, the regulations on the revocation of citizenship in the legal systems addressed would determine the risk of a certain ethnic group being disproportionately targeted by a revocation order, such as people of Arab origin or Muslim religion. These provisions seem to feed the construction of the *topos* of the “enemy” against whom to canalize the problem of public security within a process of criminalization and social stigmatization.

From this perspective, enemy is the one who has been excluded from the protection of the state, to which the rules of its legal system no longer belong, since he has involuntarily lost his *status civitatis* because of the ascertainment of specific criminal responsibilities.

It is precisely at this point that an exacerbation of the exclusionary function of borders becomes legitimate. The concept of the “exclusivity” or “exclusion” of citizenship returns, inevitably perpetrating an opposition between “us” and “them”.⁸⁴In this dynamic, it is always the government, with the predisposition of deprivation of nationality measures, that draws the boundary between “us” and “them”, between “friend” and “enemy” in the *Schmittian*⁸⁵sense of political

⁸⁴ Gupta, A., Ferguson, J., *Beyond “Culture”: Space, Identity, and the Politics of Difference*, in *Cultural Anthropology*, vol. 7(1), 1992, p. 6-23, emphasizes how apparently the world is divided into “ourselves” and “others”, a historically constituted division.

⁸⁵ Schmitt, C., *Le categorie del ‘politico’*. *Saggi di teoria politica*, in Miglio, G., Schiera, P., (eds.), *il Mulino*, Bologna 1972, pp. 111-112. In these pages Schmitt specified that the enemy is only the public enemy: enemy is the *hostis*, not the *inimicus* in the broad sense; the *πόλεμος* not the *εχθρός*”.

opposition, decreeing the possibility of losing the *status civitatis* as a result of a decision following the determination of a criminal responsibility.⁸⁶

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⁸⁶ Cavasino, E., *Ridisegnare il confine fra “noi” e “loro”: interrogativi sulla revoca della cittadinanza*, Diritto, Immigrazione e Cittadinanza, n. 1/2019, p. 1-37, especially p. 24.

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