



Montenegro - Administrative Court, Judgment 898/2009

The applicant attempted to obtain Montenegrin nationality for himself and his two minor children through naturalisation. The requests were rejected, as the applicant did not fulfil all the naturalisation requirements. However, with regard to the children, the Court ruled that even though their parent's naturalisation failed, their entitlement to the Montenegrin nationality should be explored on the basis of acquisition at birth, as the children are otherwise stateless, and annulled the part of the administrative decision related to the children on the basis of insufficient reasoning.

Case name (in original language) : 898/2009

Case status: Decided

Case number: 898/2009

Citation:

[https://data.globalcit.eu/caselawDB/docs/MONTE%20898%202009%20\(original\).pdf](https://data.globalcit.eu/caselawDB/docs/MONTE%20898%202009%20(original).pdf)

Date of decision: 30/12/2009

State: Montenegro

Court / UN Treaty Body: Administrative Court of Montenegro

Language(s) the decision is available in: Montenegrin

Applicant's country of residence: Montenegro

Legal instruments: 1961 Statelessness Convention, Convention on the Rights of the Child (CRC)

Key aspects: Acquisition of nationality, Childhood statelessness

Relevant Legislative Provisions:

Article 7 and 8 of the Law on Montenegrin Citizenship

Articles 4 and 7 of the Convention on the Rights of the Child

Article 1 of the Convention on the Reduction of Statelessness

Facts

The applicant applied for naturalisation in Montenegro for him and his two minor children, all of which were rejected, because the applicant was in possession of the documents of the country of origin.

Legal arguments by the applicant

The applicant argued that the authorities mistakenly refused to grant Montenegrin nationality to the children, both of whom were born in Podgorica, and have legally and continuously resided there since birth, attending school. They have no other nationality, and are therefore de facto stateless. Denying their naturalisation in Montenegro leaves them in the situation of statelessness, with serious consequences for their future, contrary to the provisions of Articles 4 and 7 of the Convention on the Rights of the Child, and Article 1 of the Convention on the Reduction of Statelessness. The decision is moreover in violation of Article 7 of the Law on Montenegrin Citizenship, which entitles the children to acquire Montenegrin nationality as a matter of birth right.

Legal arguments by the opposing party

The authorities requested the Court to declare the complaint unfounded.

Decision & Reasoning

In relation to the issue of nationality of the children, the Court reasoned as follows:

“Article 7, paragraph 1, of the Law on Montenegrin Citizenship, states that Montenegrin citizenship is acquired by a child born or found in the territory of Montenegro, if both parents are unknown, or have an unknown nationality, or are stateless, or if the child otherwise remains stateless.”

“The authorities concluded in the disputed decision that the minor children of the applicant do not meet the requirements of Article 8 of the Law on Montenegrin Citizenship, because none of their parents acquired Montenegrin nationality by naturalisation. This conclusion is vague and incomprehensible. This is especially so because the above-cited provision of Article 7 of the Law on Montenegrin Citizenship establishes a ground for acquisition of Montenegrin nationality by birth,

and it has been indisputably established that the minor children of the applicant were born in Montenegro. [...] The reasoning in the disputed decision relating to the admission of children of the applicant to Montenegrin nationality was not given in accordance with the provisions of Article 203, paragraph 2 of the Law on General Administrative Procedure, which renders that part of the disputed decision unlawful.”

Decision documents

[Administrative Court, Judgment 898/2009](#)

Outcome

The Court annulled the part of the decision that denied Montenegrin nationality to children.

Links to other relevant materials related to the case (blogs, analysis, articles, reports, etc.)

Further info: <https://globalcit.eu/citizenship-case-law/?search=1&name=&year=&country...>