



[Croatia - Administrative Court of Split, judgment no. Usl-293/15-6](#)

In 2012, the applicant received a guarantee that he would receive Croatian citizenship if he would renounce his UK nationality, and he proceeded with the renunciation. In 2013, criminal proceedings against the applicant were initiated, and his naturalisation application was thus postponed and subsequently, after the criminal conviction, rejected - leaving him stateless. The Court ruled against the applicant, finding that naturalisation is a discretionary power of the state and not a right of an individual, and that all the naturalisation requirements, including renunciation of previous nationality and lack of criminal record, need to be met cumulatively for a successful naturalisation.

Case status: Decided

Case number: Usl-293/15-6

Citation: <https://sudskapraksa.csp.vsrh.hr/decisionText?id=090216ba8074d5f8&q>

Date of decision: 31/03/2017

State: Croatia

Court / UN Treaty Body: Administrative Court in Split

Language(s) the decision is available in: Croatian

Applicant's country of birth: Unknown

Applicant's country of residence: Croatia

Legal instruments: 1961 Statelessness Convention

Key aspects: Acquisition of nationality, Voluntary renunciation of nationality

Facts

The applicant applied for Croatian citizenship in 2005. In 2012, he received a guarantee that he would receive Croatian citizenship if he would renounce his UK nationality. In 2013, criminal proceedings were initiated against the applicant, and the administrative authorities decided to postpone their decision on the naturalisation application pending the outcome of the criminal proceedings. In 2014, the applicant was convicted and, in 2015, the authorities issued a negative decision on his naturalisation. This rendered the applicant stateless.

Legal arguments by the applicant

The applicant argued that he has lived and worked in Croatia for many years, and has a family in Croatia. His son, who lives in his household, was born in Croatia. He is a taxpayer and business owner in Croatia. The applicant emphasises that he is not seeking Croatian citizenship as a refugee or for economic reasons, which may be proved by the fact that he is already a national of the European Union. The authorities should have assessed the application in accordance with his situation as it was at the time the application was submitted, and that changes of circumstances must not affect the rights he has already accumulated. Postponement of the decision violated the principle of the presumption of innocence, as well as the principle of protection of legitimate expectations of the applicant. The decision was moreover not delivered promptly. He argued that he has complied with the requirement of the authorities to renounce his UK nationality, and that he was left stateless as a result. This is in violation of the 1961 Convention on the Reduction of Statelessness.

Legal arguments by the opposing party

The authorities argued that it was correct to postpone the decision on naturalisation, and subsequently to reject the applicant's request, as there was a chance (which was subsequently confirmed) that he did not fulfil one of the requirements for naturalisation. This decision was in line with the principle of respect for the legal order of Croatia. The authorities moreover point out that access to citizenship is a discretionary power of each state, and that there is no deadline for deciding on naturalisation applications. The authorities moreover argued that the applicant enjoys permanent residence in Croatia, with all the associated extensive rights, which may be compared with the rights of citizens, with only the only exception being voting rights.

Decision & Reasoning

The Court reasoned as follows:

“The parties are disputing whether the authorities’ decision correctly and lawfully terminated the application for naturalisation due to criminal proceedings having been initiated against the applicant. According to Article 145(1) of the General Administrative Procedural Act (hereinafter: GAP), which in this particular case is to be applied in accordance with Article 168 GAP, the authority conducting the procedure must terminate the procedure when an issue arises relating to the existence of a prior criminal offence, marriage, or establishment of paternity, or when it is required by law to do so.”

“The requirement [on renunciation of previous nationality] shall be deemed to have been met if the application was submitted by a stateless person or a person who will lose their former nationality by operation of law.”

“[...] the authorities correctly concluded that the outcome of the criminal proceedings could have an impact on the acquisition of Croatian citizenship [...]. The Court finds that in the present case the authorities correctly came to the conclusion that the criminal proceedings constituted a prior issue (within the meaning of Article 145(1) GAP), and considering the prior issue relates to a criminal offence, the authorities were obliged to terminate the administrative proceedings in accordance with Article 145(1) GAP. The applicant’s claim that the principle of presumption of applicant’s innocence was violated is unfounded, since the authorities did not reject the applicant’s request for Croatian citizenship due to him having had committed a criminal offence, but instead correctly terminated the procedure pending the outcome of the criminal process. The applicant’s claim that the principle of protection of acquired rights and legitimate expectations was violated is also unfounded, because the applicant never acquired a right to receive Croatian citizenship merely by submitting an application, and that the authority correctly concluded that it was necessary to assess whether the applicant complied with the requirements prescribed by Article 8 of the Croatian Citizenship Act.”

In relation to the applicant’s statelessness, the Court reasoned as follows:

“Finally, concerning the claim of the applicant’s attorney that on 29 February 2012 the applicant received a guarantee for acquiring Croatian citizenship if he renounces his UK nationality, it should be noted that Article 8(1)(2) of the Croatian Citizenship Act prescribes the relevant condition for acquiring Croatian citizenship, which must be met cumulatively with other conditions, and in the context of the arising issue of the applicant’s criminal record, the resolution of which would determine whether the applicant meets the condition stipulated by Article 8(1)(5) of this Act, this claim does not affect the outcome of the judgment.”

Decision documents

[Administrative Court of Split, judgment no. Usl-293/15-6](#)

Outcome

The Court ruled against the applicant and upheld the administrative decision denying the applicant Croatian citizenship.