



## [Ukraine - Supreme Administrative Court, judgment no. K-25503/10](#)

The applicant was born in the Soviet Union on the territory of Russia. The facts as to where the applicant lived and when are disputed in the case. In 1999 he was issued a Ukrainian passport, but a court later established that the place and date of birth he indicated were not correct, and his passport was confiscated and destroyed. The authorities argued that the applicant ought to prove he never acquired Russian nationality or alternatively that he renounced his Russian nationality.

**Case status:** Decided

**Case number:** K-25503/10

**Citation:** <https://reyestr.court.gov.ua/Review/23891371>

**Date of decision:** 26/04/2012

**State:** Ukraine

**Court / UN Treaty Body:** Supreme Administrative Court

**Language(s) the decision is available in:** Ukrainian

**Applicant's country of birth:** Soviet Union {former}

**Applicant's country of residence:** Unknown

**Key aspects:** Acquisition of nationality, Burden of proof, Deprivation of nationality, Determination/confirmation of nationality, Passport restoration, State succession

### **Facts**

A number of relevant facts of the case are disputed. A Court in Ukraine established the following facts: the applicant was born in Russia; he was married in Russia in 1981; he was imprisoned, and after his release in 1987 he was issued with a passport in 1988. Until 1994 he residence in Russia, and at the time of the court investigation of facts he continued to be registered at his Russian address.

The applicant claimed that his marriage ended and that he has not been residing at

his registered address in Russia.

In 1999 the applicant obtained a Ukrainian passport. When acquiring the passport he reported to have been born in Moscow, and on a different date than what has been later established by a court as his date of birth. As a result, the authorities that have issued the passport have determined that the passport was issued unlawfully, and ought to be confiscated and destroyed.

In September 2007 the applicant applied to a court in Ukraine about Ukrainian authorities' obligation to issue him a passport, and the request was approved by the first instance court in 2009. This judgment was however overturned in 2010, and appealed by the applicant to the Supreme Administrative Court, resulting in the present ruling.

It is unclear whether the applicant became stateless as a result of the confiscation of his Ukrainian passport, or whether he is (also) a Russian national.

### **Legal arguments by the opposing party**

The applicant did not prove that he did not become a national of Russia, having resided there until 1994, and neither did he demonstrate that he has potentially renounced that nationality.

### **Decision & Reasoning**

The Court reasoned as follows:

“The procedure for effectuating the right of nationals to obtain a passport of a national of Ukraine is established by [relevant procedural law], however, this procedure cannot be applied to the applicant, as according to the inspection conducted by Immigration Authorities in Kirovograd Region the applicant's passport has been determined to have been issued in violation of applicable law, and is as such subject to confiscation and destruction.”

“The Court notes that the decision to grant Ukrainian nationality may be revoked in case nationality is acquired by fraud, through submission of knowingly false information or false documents, and concealment of any material fact which, if known, would have resulted in the person not acquiring Ukrainian nationality.”

“The [lower instance court] came to the correct conclusion that since the unlawfulness of the authorities' actions has not been established, and at the same

time it has been established that the passport [of the applicant] was confiscated from him as a result of it having been issued in violation of applicable law, the applicant's request to confirm the authorities' obligation to perform specific actions is unfounded."

### **Decision documents**

[Supreme Administrative Court, judgment no. K-25503/10](#)

### **Outcome**

The court ruled against the applicant, denying him the right to be issued with a Ukrainian passport.