



[Russia - Appellate court, case no. 12-226/2017](#)

In July 2017, the applicant was punished with deportation from Russia for violating the rules of stay of foreign nationals and was placed in a detention centre for foreign nationals until execution of the deportation order. It was later found that the applicant had lost his Tajik citizenship and deportation to Tajikistan therefore became impossible. The applicant successfully challenged the decision on his deportation due to the impossibility of executing the deportation order, and was released from the detention centre.

Case name (in original language) : Решение Пензенского областного суда от 21 декабря 2017 г. по делу № 12-226/2017

Case status: Decided

Case number: 12-226/2017

Citation: Penza Regional Court, Decision No. 12-226/2017 dated 21 December 2017

Date of decision: 21/12/2017

State: Russian Federation

Court / UN Treaty Body: Penza Regional Court

Language(s) the decision is available in: Russian

Applicant's country of birth: Tajikistan

Applicant's country of residence: Russian Federation

Key aspects: Deportation and removal, Detention

Relevant Legislative Provisions:

- Articles 3.10, 27.19, 31.7, 31.9 of the Russian Code on Administrative Offences
- Article 29 of the Constitutional Law of the Republic of Tajikistan on Citizenship

Facts

The applicant was held administratively liable and sentenced to deportation. The applicant had been placed in a detention centre for foreign nationals pending execution of the deportation order and had spent five months there, until it became

known that he had been deprived of his Tajik citizenship and there was no country to which the applicant could be deported. As the law did not allow a person to be released from the detention centre for foreign nationals without a court decision, the applicant could only be released from detention after the expiry of the two-year period for the execution of the detention order, although it was obvious that for objective reasons it would not be executed within that period.

Legal arguments by the applicant

The applicant claimed that it was impossible de facto and de jure to enforce the first instance court order for his administrative deportation from Russia, since there was no country to accept him.

Decision & Reasoning

The court, referring to the ruling of the Constitutional Court of the Russian Federation No. 14-ПР of 23 May 2017, stated that where there are circumstances indicating that a stateless person cannot be deported within three months of the imposition of the relevant administrative sanction, the person has the right to appeal against further detention. In the court's view, *"without knowing the length of their detention and without being able to appeal against it, stateless persons are deprived of an effective judicial remedy [...] and are consequently forced to remain in a state of uncertainty as to how long their liberty and safety will be restricted"*. Given that the applicant had previously been deprived of his Tajik citizenship and therefore his deportation was not possible, the court decided to quash the order for the applicant's administrative expulsion from Russia. The court revoked the interim measures to detain the applicant in order to enforce the repealed deportation order.

Decision documents

[Решение Пензенского областного суда от 21.12.2017 по делу N.pdf](#)

Outcome

The applicant was released from the detention centre for foreign nationals.

Caselaw cited

- Ruling of the Constitutional Court of the Russian Federation No. 14-П dated 23 May 2017 on reviewing the constitutionality of Articles 31.7 and 31.9 of the Russian Code on Administrative Offences in connection with the complaint of a stateless person