



[ECtHR - Karassev v. Finland](#)

The applicant claimed that Finland violated Articles 8 and 14 ECHR when Finnish authorities allegedly arbitrarily denied him Finnish nationality, despite statements issued by the Russian authorities on his nationality status and the fact that he did not acquire Russian nationality at birth, contrary to the decision of the Finnish authorities based on their interpretation of Russian nationality law. The Court found the application manifestly ill-founded and therefore inadmissible, and held that the Russian authorities' statements on the applicant's nationality status, while ambiguous, could imply that he had acquired Russian nationality at the time of his birth.

Case name (in original language) : Andrei Karassev and Family v. Finland

Case status: Decided

Case number: 31414/96

Citation: European Court of Human Rights, Andrei Karassev and Family v. Finland, Application no. 31414/96, 12 January 1999

Date of decision: 12/01/1999

State: Finland

Court / UN Treaty Body: European Court of Human Rights

Language(s) the decision is available in: English, French

Applicant's country of birth: Finland

Applicant's country of residence: Finland

Legal instruments: European Convention on Human Rights (ECHR)

Key aspects: Acquisition of nationality, Childhood statelessness, Determination/confirmation of nationality, Respect for private and family life

Relevant Legislative Provisions:

- European Convention on Human Rights: Articles 8 and 14
- Citizenship Act, Section 1(4)
- Aliens Act, Section 5

Facts

The applicant was born in 1992 in Finland, where his parents and older brother, citizens of the former Soviet Union, arrived in 1991. Their asylum request was rejected and an expulsion order was issued against them in 1992 as the Ministry of the Interior considered that the family were citizens of the former Soviet Union with no ties to Finland that could prevent their expulsion. The family appealed to the Supreme Administrative Court.

While the applicant's family were awaiting a decision on their residence and expulsion order, the applicant was born in December 1992. He was not registered as being entitled to Finnish social security benefits and his parents were refused several allowances.

The Supreme Administrative Court referred the matter back to the Ministry of the Interior for renewed consideration as the expulsion order had not concerned the applicant himself. In 1994, Finnish authorities proposed that the applicant and his family be expelled. The applicant and family requested the expulsion order not be granted until the applicant's possible entitlement to Finnish nationality was examined. The applicant requested to be granted Finnish nationality by application. The applicant issued several requests and appeals of rejections for residence permits over the course of several years. The family was ordered to be expelled to Russia as they were considered to be Russian nationals in accordance with the Russian Citizenship Act which had entered into force in 1992. At that time, the family were not permanent residents of Finland but in Russia and therefore had become citizens of Russia. The Ministry found that the applicant had not obtained Finnish nationality at birth, but Russian.

In 1996, the Russian Embassy in Finland certified that the applicant's parents and the applicant were not citizens of Russia, pursuant to the Russian Citizenship Act, and their Soviet passports were no longer in force. The applicant withdrew his request for nationality by application and requested instead that the Finnish President confirm that he was a Finnish national by birth, as Finnish law provides that a child born in Finland acquires Finnish nationality if he or she did not at that time acquire the nationality of another country. Again, the applicant was refused.

In 1997, the Ministry of the Interior considered that the applicant and his families' nationality were unknown. Considering that Russian authorities stated that the applicant and his family would not be accepted back into Russia, the attempts to

enforce the expulsion order had failed. The applicant's family were granted aliens passports and temporary residence permits.

The Ministry of the Interior then through the Ministry of Foreign Affairs sought clarification from the Russian authorities about the applicant and his family's citizenship. According to the Ministry's interpretation of the Russian Citizenship Act, citizens of the former Soviet Union who were permanently resident in Russia when the Act entered into force were automatically granted Russian citizenship, provided they did not refuse it within one year from the Act's entry into force, and the family had no evidence of this refusal. The Ministry also requested clarification that the applicant had not received Russian Citizenship at birth, or, if he did, why and when he lost it.

In response, the Citizenship Commission of the President of Russia clarified the interpretation of the Russian Citizenship Act, stating that, because the family have resided in Finland for five years, they have lost ties to Russia and have not expressed their willingness to renew those ties, they are not citizens of Russia. The Russian Embassy further certified that pursuant to the Russian Citizenship Act, the applicant was not and had not been a citizen of that State. Nevertheless, in January 1998, the Finnish President declared that the applicant was not a Finnish national.

The applicant petitioned to the Parliamentary Ombudsman regarding the excessive length of the proceedings pertaining to the applicant's request for nationality declaration. No decision had been made when the case reached the ECtHR.

Legal arguments by the applicant

The applicant complained that the delay by the Finnish authorities' in regularising his stay in Finland, leaving him stateless, the impact this had on his eligibility for various benefits, and the fact the Finnish authorities refused to consider the applicant a Finnish citizen by birth despite the Russian Government stating that he was not a Russian citizen breached Article 8 and 14 of the Convention.

The applicant argues that the refusal of citizenship, together with his family situation, resulted in a violation of articles 8 and 14. The applicant argues that the refusal of citizenship 'for which he was entirely qualified' was based on an interpretation of Russian law, which Russia rejected. The applicant also argued that the refusal to recognise him as a citizen was based on the ethnic and national background of the applicant's parents thus engaged article 14.

Legal arguments by the opposing party

The Government noted that the applicant has not launched a new application for nationality, and has not launched an application for either an alien's passport and/or a residence permit. The granting of an alien's passport and residence permit would afford him the same status as the rest of the family and remove the consequences of the citizenship refusal. The Government contend that had these applications for an alien's passport and a residence permit been made they would have been granted. The Government argue therefore that the applicant has not exhausted domestic remedies and the complaint should therefore be rejected under Article 27 § 2 (Article 35 § 3 since the entry into force of Protocol No. 11) (court may only deal with the matter after all domestic remedies have been exhausted) of the Convention as being incompatible with the Convention.

The Government further argued that the applicant has been entitled to various social security benefits thus cannot be considered a victim under Article 25 (article 34 since the entry into force of Protocol No. 11).

Decision & Reasoning

The Court considered that the applicant cannot be required to apply for an alien's passport because this application would have relinquished his right to a citizenship by birth.

The Court concluded the applicant, despite receiving social security benefits, can still claim he has been affected by the proceedings as he was denied social security benefits for several years and has still not acquired Finnish (or any other) citizenship.

Article 8

The Court noted that the Convention does not guarantee the right to acquire a particular nationality. However, this does not exclude an arbitrary denial of citizenship raising an issue under Article 8 in certain circumstances because of the impact of that denial on the private life of an individual. Therefore the Court considered whether the denial of nationality had been arbitrary or resulted in consequences that may raise issues under Article 8.

The Finnish government refused the citizenship application based on the Citizenship Act that stated that a child born in Finland receives Finnish nationality by birth on the condition that it does not at that time receive nationality of any other country. The Finnish authorities reached the conclusion that the applicant did not qualify for citizenship as he had received citizenship of Russia at birth.

The Court found that the statements issued by the Russian embassy in Finland that addressed the nationality of the applicant and his family were inconclusive. Particularly, the Court noted the opinion of the Citizenship Commission of the President of the Russian Federation in 1997, who gave an opinion to the Finnish Ministry, concluding that after living in Finland for five years the family had lost their ties to Russia and had not expressed any desire to restore them, thus were not citizens of Russia. However, the fact that the family had lost ties and were not Russian citizens of in 1997, appears to suggest that the ties may have existed in 1992 when the applicant was born, thus the applicant may well have acquired Russian citizenship at birth. Therefore, although ambiguous, this statement does not appear in contradiction with the interpretation by the Finnish authorities of the Russian Citizenship Act.

The Court therefore found that the Finish authorities' decision not to recognise the applicant as a national of Finland was not arbitrary in a way that which could raise issues under Article 8 of the Convention.

With regards to the consequences of the denial to regard the applicant as a national, the Court notes that the applicant had not been threatened with expulsion; has enjoyed some social benefits, such as day care and child allowance); and is in the care of his family who receive various social benefits. Although the applicant didn't receive these benefits from the outset, the Court doesn't find that the consequences have been sufficiently serious to raise an issue under Article 8.

Article 14, in conjunction with Article 8

The Court found no reason to conclude that the decisions by Finnish authorities were based on the ethnic/national background of the applicant's parents.

Decision documents

[ECtHR, Karassev v. Finland](#)

Outcome

The Court found the application was manifestly ill-founded within the meaning of Article 35(3) of the Convention thus the application is inadmissible.

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

<http://courses.kvasaheim.com/ps376/briefs/tawhitebrief3.pdf>

https://brill.com/view/journals/emil/14/3/article-p243_2.xml - page 252 - brief analysis.

Caselaw cited

- *Nottebohm* ((ICJ Reports, 1955).
- *Akhtar, Johangir and Johangir v. The Netherlands*, No. 11278/84, Dec. 1 July 1985, D.R. 43
- *East African Asians v. The United Kingdom* No.'s 4403/70-4419/70, 4422/70, 4423/70, 4434/70, 4443/70, 4476/70- 4478/70, 4486/70, 4501/70 and 4526/70-4530/70 (joined), Dec. 14 December 1973, D.R. 78
- *Kafkasli v. Turkey*, No. 21106/92 Report of 1 July 1997.