



[Ukraine - Kherson Regional Administrative Court, judgment no. 2-a-1863/12/2170](#)

The applicant received Ukrainian nationality in 2008, and as part of the relevant evidence he submitted a court ruling establishing the fact of his permanent residency in Ukraine. Soon after, he renounced his Vietnamese nationality. In 2011 there was another court ruling which reversed the ruling about the applicant's permanent residence in Ukraine. This prompted the authorities to cancel the decision on the applicant's acquisition of Ukrainian nationality, rendering him stateless.

Case number: № 2-a-1863/12/2170

Date of decision: 26/10/2012

State: Ukraine

Court / UN Treaty Body: Kherson Regional Administrative Court

Language(s) the decision is available in: Ukrainian

Applicant's country of residence: Ukraine

Key aspects: Burden of proof, Deprivation of nationality, Standard of proof

Facts

The applicant acquired Ukrainian nationality in 2008, but the decision on granting him the nationality was cancelled in 2011. The reason for cancellation was a court ruling of 2011, which reversed an earlier ruling establishing the fact that the applicant was permanently residing in Ukraine at a relevant time to entitle him to the nationality.

Legal arguments by the applicant

The applicant argued that the authorities had no legal ground for cancelling the decision that granted him Ukrainian nationality. He claims to have obtained it lawfully in 2008, whereupon he renounced his Vietnamese nationality. The unlawful withdrawal of his Ukrainian nationality leads to violation of his constitutional rights.

It also leads to his statelessness, as well as to limiting his rights to manage his property that he acquired in Ukraine. Moreover, the applicant complained about the procedural aspects of the decision, in particular that he was never informed about the reasons for the cancellation of his acquisition of Ukrainian nationality.

Legal arguments by the opposing party

The respondent argued that the court decision of 2008 which determined the applicant's permanent residence status in Ukraine from 1989, was overruled in 2011, and that this forms the basis for reversing the decision on the acquisition of Ukrainian nationality by the applicant. The new judgment eliminated the grounds for his acquisition of Ukrainian nationality, as well as his right to the latter.

Decision & Reasoning

The Court reasoned as follows:

"The applicant acquired Ukrainian nationality on the basis of territorial origin, which was substantiated by a court decision determining the fact of his permanent residence on the territory of Ukraine as of 28.05.1989"

"Thus, the fact of permanent residence of the applicant on Ukrainian territory was confirmed solely by the said court decision".

"The grounds for adopting a decision on the cancellation of acquisition of nationality became the decision of a court of appeals of Kherson region of 18.03.2011, which determined that the fact of permanent residence of the applicant on Ukrainian territory as of 28.05.1989 has not been confirmed with necessary evidence, and therefore a lawful basis for the establishment of this fact is absent."

"Thus, the court of appeals established the lack of the applicant's right to acquire nationality on the basis of territorial origin".

"Thus, the court of appeals of Kherson region has established a fact of unlawful presence of the applicant on the territory of Ukraine, which lead to the reversal of the decision of the Suvorov regional court in city Kherson about the establishment of the fact of permanent residence of the applicant on the territory of Ukraine".

"Since there is no evidence of permanent residence of the applicant on the territory of Ukraine before 24.08.1991, there are consequently also no legal grounds for the

applicant's acquisition of Ukrainian nationality".

Decision documents

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Outcome

The Court ruled that the decision cancelling acquisition of nationality was justified, without engaging with the issue of the applicant's statelessness that resulted from the loss of nationality.