



[Russia - Supreme Court of Saha Republic, judgment №33-1261/2013](#)

The applicant is a former USSR citizen, who has been residing on the territory of Russian Federation since 1990. He has received an "insert" into his passport in 1994 as evidence of him being recognised as a Russian citizen, which was a standard procedure at a time. In 2011 a "verification" took place - a policy that resulted in questioning of many citizenships acquired after the fall of the Soviet Union, including the applicant. The Court sided with the applicant, considering among others that refusal to recognise him as a Russian citizen would result in his statelessness.

Case status: Decided

Case number: №33-1261/2013

Date of decision: 24/04/2013

State: Russian Federation

Court / UN Treaty Body: Supreme Court of Saha Republic

Language(s) the decision is available in: Russian

Applicant's country of residence: Russian Federation

Legal instruments: 1997 European Convention on Nationality

Key aspects: Acquisition of nationality, Deprivation of nationality, Determination/confirmation of nationality, Establishing identity, Residence permit, State succession

Relevant Legislative Provisions:

Article 18 of the European Convention on Nationality

Article 12 and 18 of the Law on Russian Federation of 28 November 1991 N 1948-1 'On the Citizenship of Russian Federation'

Facts

The applicant was born as a citizen of USSR. He arrived in Russia in 1990, and had a USSR passport of the format from year 1974. In 1994 he has been issued an insert into his USSR passport confirming his Russian citizenship. In 2011 a verification has been conducted, which found that the applicant did not have the correct permanent registration at his place of residence on 6 February 1992, and therefore cannot be considered as a Russian citizen. This resulted in a refusal to issue him a passport of a Russian citizen.

Legal arguments by the applicant

The applicant submitted that he has been residing on the territory of Russian Federation since 1990, never acquired a nationality of any other state, has lawfully received an insert into his USSR passport confirming his Russian citizenship in 1994, and he has been residing permanent in Russia ever since. The refusal to issue him a passport is therefore unlawful.

Decision & Reasoning

The Court reasoned as follows:

"Article 12 of the Law on Russian Federation of 28 November 1991 N 1948-1 'On the Citizenship of Russian Federation' establishes that the citizenship of Russian Federation can be acquired in following ways: as a result of recognition, by birth, through registration, as a result of acceptance into citizenship, and as a result of restoration of citizenship."

"According to Article 13 of this Law all citizens of the former USSR who have been permanently residing on the territory of Russian Federation on the day of entry into force of the Law are recognised as Russian citizens, unless they register their wish not to be Russian citizens within a year from that date."

"According to point "r" of article 18 of the Law of Russian Federation 'On Citizenship of Russian Federation' citizens of former USSR who have been residing on the territories of former USSR republics and who have arrived to the Russian Federation about the 6th of February 1992 with a purpose to reside acquire Russian citizenship through registration, if they register their wish to acquire Russian citizenship before 31 December 2000. One circumstance which excludes registration as a Russian

citizen is if the applicant holds a citizenship of another state."

"The applicant has received an insert of citizen of Russian Federation in 1994, which could not have been issued without the prescribed procedure, which constitutes evidence that the applicant expressed and registered his wish to be a Russian citizen."

"There is no evidence that the applicant also holds citizenship of the Republic of Kazakhstan."

"Moreover, the lower instance court established that a criminal conviction of Mirninsky regional court of 21 April 2010 convicts the applicant as a Russian citizen. In accordance with part 1 of article 265 УПК РФ [Criminal Code], the criminal court is obliged to establish identity of the suspect, among which the citizenship of the suspect, which has legal significance in determining the sentence."

"Article 18 of the European Convention on Nationality from 6 November 1997 establishes that when it comes to nationality in the context of state succession, every relevant state should adhere to the principles of the rule of law, human rights, as well as the aim to avoid statelessness. When taking decisions on granting or preserving their nationality, the state should take into account the existence of a genuine and real link between the individual and the state, the permanent place of residence, the will of the individual, and territorial origin of the individual."

"Refusal to recognise the applicant as a citizen of Russian Federation, and refusal to issue him a passport of a Russian Federation, leads to the applicant becoming a stateless person, and he will not be able to obtain a residence permit due to his criminal record, which is not acceptable according to the European Convention on Nationality."

Decision documents

[Saha_24April2013.pdf](#)

Outcome

The Court sided with the applicant, and declared the decision refusing to issue him a passport of a Russian citizen to be unlawful.