

## **Ukraine - Supreme Administrative Court,** **judgment no. 820/4982/16**

The applicant and his two children acquired Ukrainian nationality in 2004, on the basis of "territorial origin" provision. The acquisition was "cancelled" twelve years later on the basis of a statement by the applicant's (alleged) mother that the birth certificate submitted by the applicant in 2004 contained inaccurate information about his parentage. The Court sided with the applicant, maintaining that the accuracy of a birth certificate cannot be challenged on the mere basis of a statement, but also taking into consideration that the administrative decision rendered the applicant stateless in violation of national and international norms.

**Case name (in original language) :** №820/4982/16

**Case status:** Decided

**Case number:** №820/4982/16

**Date of decision:** 20/06/2019

**State:** Ukraine

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

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

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

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

### **Facts**

Applicant applied in 2004 to acquire Ukrainian citizenship for himself his two children, on the basis of territorial origin. Within that application he submitted his birth certificate, with information about his both parents, and a copy of the Ukrainian passport of his mother. In 2016 the decision granting citizenship was cancelled. The reason for that was that the (alleged) mother of the applicant made a statement to the authorities, maintaining that the applicant is actually a son of a cousin of her husband. This lead to the authorities concluding that the applicant purposefully misrepresented relevant information in his citizenship application.

### **Legal arguments by the applicant**

The applicant claimed that his and his children's citizenship cannot be withdrawn on the basis of a mere statement by his (alleged) mother without further documentary evidence that his citizenship application was inaccurate.

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

The authorities argued that the applicant submitted false documents in order to establish his right to Ukrainian citizenship, and that the decision based on those false documents ought to be cancelled.

### **Decision & Reasoning**

The Court reasoned as follows:

"A necessary and compulsory condition for cancelling a decision on acquiring Ukrainian nationality on the basis of Article 21 of the Law on Ukrainian Nationality is the establishment by the executive authority that implements nationality policies of the fact that the nationality was acquired by deception, as a result of purposefully providing incorrect information or false documents, or withholding essential information which if it was known would not lead to the acquisition of nationality."

"Such circumstances need to be confirmed through documents that prove the person purposefully provided incorrect information or false documents."

"The lower instance court correctly noted that the respondent did not provide any documents that would have confirmed that the documents the applicant provided in the context of acquisition of nationality were false or contained incorrect information".

"The Court agrees that the statement (which prompted the respondent's conclusion that the applicant purposefully provided incorrect information) is not insufficient to challenge information contained in the birth certificate of the applicant. The relevant legislation clearly establishes that the fact of familial relations is established on the basis of a document, therefore challenging such fact can only be done on the basis of an equivalent document which would indicate incorrect data in the birth certificate, or the false nature of the birth certificate".

...

"Based in the above, as well as considering that the applicant is a citizen of Ukraine, and there is no indication in the case file that the applicant is a national of another state, the Court agrees with the conclusions of the lower instance court that the disputed administrative decision has in fact deprived the applicants of their Ukrainian nationality, which leads to their statelessness, and which violates principles of national legal order as well as international legal norms which are an integral part of the former."

### **Decision documents**

[Supreme Administrative Court, judgment no. 820/4982/16](#)

### **Outcome**

The Court sided with the applicant and confirmed the unlawfulness of the administrative decision withdrawing the applicant's nationality.