

Karashev and Family against Finland

European Court of Human Rights 31414/96 (1999)

Facts

- a. Filed with the European Court of Human Rights in Strasbourg, France, for alleged wrongdoing by the government of Finland.
- b. The Karashevs, the mother, father, and eldest son, were born in the former Soviet Union and fled to Finland in 1991 after an attempted coup in their homeland.
- c. While the Karashevs awaited a decision on their request to be granted residency in Finland, their second child, Pasi, was born in Finland in December of 1992. Because his parents were considered Soviet (and then Russian) citizens at the time of his birth by Finnish authorities, Pasi was not granted Finnish citizenship.
- d. The government of the Russian Federation has ruled that the Karashevs, including Pasi, are no longer Russian citizens, having severed ties with that State and created new ties with Finland over the course of several years.
- e. Guardians on behalf of Pasi Karashev (the applicant) have claimed that the government of Finland has wronged the applicant by delaying his naturalization and refusing him the rights owed to Finnish citizens such as health coverage and education for several years. The applicant claimed that under Article 8 of the European Convention on Human Rights, Finland had impinged upon his “right to respect for his private and family life, his home ...” and that “[t]here shall be no interference by a public authority with the exercise of this right ...” (European Convention on Human Rights, Article 8). The applicant also claimed under Article 14 that the government had discriminated against him on the basis of his parents' land of origin.

Questions

- a. Does the Court have jurisdiction to hear the case?

To answer this, it must be asked:

- b. Did the government of Finland infringe on Pasi's rights, under the ECHR, in refusing to quickly decide on his citizenship status?

If the Court has jurisdiction, these questions may be answered:

- c. Was Pasi Karashev born a Russian citizen?
- d. Were Karashev's parents Russian citizens at the time of Pasi's birth?

Decisions

- a. The Court ruled that it did not have jurisdiction, which makes the application inadmissible.

b. The Court ruled that the applicant's rights have not been violated by the government of Finland. The Court ruled that because the applicant and his family are now receiving the benefits owed to the family, that there is no longer a push to have the family or the applicant moved back to Russia, and that the applicant can apply for residency, his right to respect for life and home has not been violated. The Court also ruled that there is no reason to suspect that the decisions regarding the applicant's citizenship were motivated by the original nationality of his family. Because the applicant's rights were not seen to have been violated under the ECHR, the Court could make no further ruling.

c & d. While the application was ruled inadmissible, the Court did say that it appears the Karassevs are no longer Russian citizens. However, the reason for this given by the Russian government cited the Nottebohm case, which claims citizenship is based on ties between individual and State. In 1997, the Russian Federation ruled that the Karassevs were no longer Russians, but this leaves open the debate over whether they were still Russians five years earlier, when Pasi was born, when perhaps the ties were stronger with Russia than with Finland.

Principles

- a. This ruling is primarily concerned with **subject matter jurisdiction**.
- b. The key international law points in this case are **statelessness and naturalization/denaturalization**.
- c. This case shows that the principles of naturalization and denaturalization are not always clear-cut, and can be made difficult when a State falls apart, and/or when States disagree on when and how one becomes denaturalized.

Conclusion

While no real decision was rendered because the ECHR was not violated, this case presents very interesting points. Better communication between the States of Russia and Finland would have perhaps made the entire affair moot, as Russia never intended to claim the Karassevs as their own and therefore Pasi, being born in Finland with no other nationality, would have immediately been recognized as a Finnish citizen. The case is also noteworthy because the Russian Federation cited the Nottebohm case, showing that that strange decision is still used as precedent in modern times.

Bibliography

Convention for the Protection of Human Rights and Fundamental Freedoms, ETS 5, Articles 8, 14
Karassev and family against Finland, Application No. 31414/96. European Court of Human Rights (1999)

Nottebohm Case (*Liechtenstein v. Guatemala*), 1955 International Court of Justice Reports 4 (1955)

Submitted

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