

DECISION

Having considered a complaint from Amina Nazimovna Ruzmanova against the January 26, 2004 decision by Head of Krymsk Internal Office (RVOD) A.N. Shumitski to impose an administrative penalty, Judge N.V. Yurina of the Krymsk District Court of Krasnodar Territory

HAD FOUND AS FOLLOWS:

A.N. Ruzmanova complained to the court about the January 26, 2004 decision by Head of Krymsk ROVD A.N. Shumitski to bring her to account on administrative charges under Article 18.8 of the Code of Administrative Offences, and asked the court to repeal it as unlawful. She argued that she had not contravened Article 18.8. She did not consider herself a foreign citizen or a stateless person because she had permanently resided in the Krymsk District of Krasnodar Territory since 1989. In accordance with Article 21.1 and Article 13.1 of the Federal Law on Citizenship, she considered herself to be a citizen of the Russian Federation. She had repeatedly asked the Passport and Visa Service of Krymsk ROVD to register her permanently at her residence and provided documented proof of her citizenship but her requests had been turned down owing to the policies of the regional authorities. She considered that she had not committed the offence she had been charged with and therefore was free from administrative responsibility as envisaged in Article 18.8 of the Code of Administrative Offences.

In the courtroom, she upheld her demands and asked the court to meet them. She gave additional explanations to the court saying that she and her husband had arrived for permanent residence in the Krymsk District of Krasnodar Territory in 1989. They bought a house at 69, Bakanskaya Street in Verkhni Adagum. Their ownership has not yet been properly documented. On March 29, 1992 her son, Murad, was born in Krymsk. Throughout her pregnancy, she had been observed at the medical outpatient office in Nizhnyaya Bakanka. Her elder daughter, Anshe Ruzmanova, went to school in Neberdzhанovskaya in 1991-1996. She had repeatedly addressed oral requests to the Passport and Visa Service of Krymsk ROVD to register her at her residence, but her requests were rejected. On April 13, 1998 she obtained her first temporary registration at the house they had bought. Subsequently, she extended her temporary registration several times in line with legal changes, up to October 30, 2002 when she refused to ask for another extension of her temporary registration and demanded to be registered at her residence for good. She does not wish to obtain a migration card or residence permit either.

The representative of the defendant, Krymsk ROVD, I.V. Sergeeva, dismissed the arguments contained in the complaint and asked the court to reject it. She considered that A.N. Ruzmanova had rightly been brought to account for an administrative offence because she had committed a breach of Article 18.8 of the Code of Administrative Offences.

After hearing out the plaintiff and the Krymsk ROVD representative and after studying the written evidence provided, the court found that the complaint must be satisfied for the following reasons.

Under Article 5(a) of the Federal Law on Citizenship of the Russian Federation (#62-FZ of May 31, 2002), citizens of Russia are persons who hold Russian citizenship on the day this law comes into effect. Article 4.7 provides that Russian citizenship or former USSR citizenship is determined based on laws of the Russian Federation, the RSFSR or the USSR, international treaties to which the Russian Federation, RSFSR or USSR has been a party, and the circumstances that define such citizenship on the day of enforcement.

In accordance with Article 13 of the earlier Law on Citizenship of the Russian Federation (#1948-1 of November 28, 1991), all citizens of the former USSR with permanent residences in Russia on the day the law entered into force. i.e. February 6, 1992, were recognized as citizens of Russia, provided they did not state their reluctance to hold Russian citizenship within one year

after the said day. Permanent residence was not directly linked to residence registration on that day.

When A.N. Ruzmanova's legal status was defined, it was ignored that on February 6, 1992 she was permanently residing in her house at 69, Bakanskaya Street in Verkhni Adagum, Krymsk District, Krasnodar Territory, i.e. in the territory of the Russian Federation. This is confirmed by a certificate from the outpatient office in Nizhnyaya Bakanka stating that on October 14, 1991 she had asked for medical assistance because of a pregnancy; a birth certificate issued in Krymsk in the name of Murad Ryzmanov on March 29, 1992 with the plaintiff stated as his mother; a certificate from School #10 in Nizhnyaya Bakanka issued in the name of Anshe Iskanderovna Ruzmanova, in whose birth certificate the plaintiff is stated as her mother, indicating that she had gone to school from 1991 to 1996. In these circumstances, the charge that the plaintiff has violated the rules of stay in Russia cannot be qualified as lawful.

Since the term of bringing A.N. Ruzmanova to account on administrative charges as envisaged in Article 4.5 of the Code of Administrative Offences has not yet expired, the administrative charges brought against her must be returned for a review by the body that is empowered to deal with the matter, owing to the substantive infraction of procedural requirements contained in the Code of Administrative Offences.

Based on the above and guided by Articles 30.7 and 30.8 of the Code of Administrative Offices, the judge

HAS DECIDED

To repeal the January 26, 2004 decision by the Head of Krymsk ROVD to impose an administrative penalty on Amina Nazimovna Ruzmanova for an offence envisaged in Article 18.8 of the Code of Administrative Offices.

To return the administrative charges brought against Amina Nazimovna Ruzmanova under Article 18.8 of the Code of Administrative Offices to Krymsk ROVD for a reexamination.

To send a copy of this decision to A.N. Ruzmanova and Krymsk ROVD within three days from its adoption.

The decision may be appealed at the Krasnodar Regional Court within ten days from its adoption.

The decision has not entered into legal force.

Judge (signed)