



Netherlands - District Court of The Hague,
NL19.29411

The Appellant is a stateless Palestinian who has applied for asylum in the Netherlands. The Appellant claims that Lebanon cannot be regarded as her country of usual residence. The court declares that Lebanon was rightly considered the Appellant's country of usual residence and the exclusion provision of Article 1 (D) of the Refugee Convention applies.

Case status: Decided

Case number: NL19.29411

Citation: ECLI:NL:RBDHA:2020:2234

Date of decision: 12/03/2020

State: Netherlands

Court / UN Treaty Body: District Court of The Hague

Language(s) the decision is available in: Dutch

Applicant's country of birth: Palestine

Applicant's country of residence: Netherlands

Legal instruments: 1961 Statelessness Convention

Key aspects: Deportation and removal, Protection

Relevant Legislative Provisions:

- Article 1(D), paragraph 1 of the Geneva Convention on Refugees
- Article 31, sub 1 of the Dutch Aliens Act 2000

Facts

The appellant is a stateless Palestinian, born in Lebanon. On 6 November 2018 she applied for asylum in the Netherlands, for a fixed period. The appellant argued that she left Lebanon because she faced discrimination and the living circumstances were difficult. She argued that it was difficult to find work. She also argued that leaving Lebanon was a precautionary measure and that she has had no difficulties

regarding discrimination or finding work. The appellant also argued that Lebanon was an unsafe country, and that she is afraid that when the political situation in Syria stabilises, her brothers will be sent back to Syria to fulfil their military conscription.

Legal arguments by the applicant

The appellant first argues that Lebanon cannot be regarded as her country of usual residence. If Lebanon is designated as the country of usual residence, the ground for exclusion in Article 1D of the Refugee Convention does not apply because she has not received any help or assistance from UNRWA.

In addition, the appellant argues that the general situation in Lebanon has deteriorated. Lebanon is increasingly hostile against the (Syrian) refugees and the authorities have now also deported refugees to Syria. In support of this position, the claimant referred to a report by Amnesty International dated 11 February 2019 on the human rights situation in Lebanon, a recent human rights report from the US Department of State (USDOS) dated March 13, 2019 and a number of news reports on forced deportations of Syrian refugees.

The appellant states that she no longer has a right of residence in Lebanon, as she had received a letter from the Lebanese authorities indicating that she cannot return back to Lebanon without the permission of the authorities.

Lastly, the appellant claimed the application of a procedural instruction of the Dutch Immigration and Naturalization Service (“IND”) named (WI) 2019/12, which contains a passage stating that the IND must assess to what extent it is plausible that foreign nationals can once again obtain a right of residence in the country of their usual residence. However, this procedural instruction was replaced after only two weeks by a different procedural instruction named WI 2019/13, in which this passage was removed. The appellant claims that she has been disadvantaged by changing this policy.

Legal arguments by the opposing party

The defendant considers the appellant’s identity, nationality and ethnicity credible and agrees with the appellant’s reasoning for her departure from Lebanon. The defendant claims that Lebanon should be considered as the country of usual residence of the appellant and that the appellant has also enjoyed protection from

the UNRWA in Lebanon.

Furthermore, the defendant argues that though the situation and the help given in Palestinian refugee camps in Lebanon is currently not ideal, one cannot claim that the appellant has stopped receiving any level of protection or legal assistance. The defendant also argues that the reasoning the appellant has given for leaving Lebanon does not lead to the conclusion that the appellant has left Lebanon involuntarily. Therefore, the ground for exclusion under Article 1(D), first paragraph of the Refugee Convention is still applicable. Furthermore, the fact that the appellant is currently not within the mandated territory of the UNRWA does not prevent her eventual return to UNRWA territory.

Therefore, the defendant has rejected the appellant's asylum claim on the grounds of Article 31, first paragraph of the Dutch Aliens Act 2000.

Decision & Reasoning

According to the court, the defendant correctly considered Lebanon as the country of usual residence of appellant. The defendant was also not obliged to include the claimant's former residence in Syria from 2005 to 2011 when assessing whether Lebanon could be classified as the country of usual residence. In assessing the appellant's habitual residence, the defendant rightly considered it relevant that the appellant was born in, and has spent most of her life in Lebanon.

Furthermore, defendant also states that appellant was a legal resident of Lebanon and had a residence permit. Therefore, the defendant was not wrong in considering that Lebanon was where appellant had her centre of main interests.

The statement of the appellant that the UNRWA does not provide help or assistance is unsuccessful. In the intention and the contested decision, the defendant rightly pointed out that the appellant's brother submitted a UNRWA document proving that she had protection. The defendant rightly concluded from this that the claimant actually received assistance from UNRWA immediately prior to or shortly before submitting her asylum application. The defendant also rightly established that the appellant voluntarily left Lebanon and that the appellant has no plausible case that UNRWA can no longer offer protection upon return. Therefore, the exclusion ground of Article 1 (D), first paragraph, of the Refugee Convention applies.

Furthermore, the defendant has not wrongly stated that the appellant has not demonstrated that she fears being prosecuted within the meaning of the Refugee Convention upon return to Lebanon. The defendant rightly pointed out that the appellant stated that she left Lebanon on a precautionary basis, that she personally did not experience discrimination there and neither did her family. The defendant has therefore successfully been able to establish that it is unlikely that the appellant will face discrimination to such a degree that her ability to exist will be limited to severely that it will be impossible to function socially.

Finally, the defendant has correctly argued that a procedure instruction is not actual legal policy, and that appellant was not disadvantaged by the application of procedure instruction WI 2019/13. The appellant did not contradict this at the hearing.

Decision documents

[ECLI_NL_RBDHA_2020_2234.pdf](#)

Outcome

The Court found that the application was rightly rejected as unfounded. The appeal is unfounded.