

Netherlands - Administrative Jurisdiction Division **from the Council of State, ECLI:NL:RVS:2019:2711**

Request to have nationality changed from "unknown" to "stateless" denied, as it cannot be ruled out that the applicant's father has Macedonian nationality. Applicant did not provide enough evidence to determine statelessness.

Case name (in original language) : ABRvS, 7 augustus 2019,
ECLI:NL:RVS:2019:271

Case status: Decided

Case number: ECLI:NL:RVS:2019:271

Citation: Administrative Jurisdiction Division from the Council of State, 7 August 2019, ECLI:NL:RVS:2019:2711

Date of decision: 07/08/2019

State: Netherlands

Court / UN Treaty Body: Administrative Jurisdiction Division from the Council of State

Language(s) the decision is available in: Dutch

Applicant's country of birth: Netherlands

Applicant's country of residence: Netherlands

Legal instruments: 1954 Statelessness Convention, 1961 Statelessness Convention

Key aspects: Determination/confirmation of nationality, Standard of proof, State succession, Statelessness determination

Relevant Legislative Provisions:

Dutch Personal Records Registration Act

Nationality Law of Macedonia

Facts

The applicant was born in the Netherlands to Yugoslav citizens. She obtained Yugoslav citizenship but that nationality no longer exists since 1 February 2004. Her nationality was therefore changed to "unknown" by the municipality. The applicant did not appeal to this change. In 2016 the applicant requested her municipality to change the registration, but this was denied. The applicant offered to provide more evidence regarding her not having the nationality of countries from former Yugoslavia, but the municipality denied this offer.

The applicant appealed to the court, which considered that a statelessness determination procedure is yet to be introduced, other than the procedure through the Personal Records Registration before the respective municipality. As long as this procedure is yet to be introduced, the applicant cannot appeal to receive protection under the statelessness conventions. When the status of the applicant was changed to "unknown" by the Municipality, the applicant did not appeal. In order to change this registration afterwards, it must be established without doubt that the applicant's nationality is not "unknown", but "stateless". The evidence provided by the applicant was however not sufficient, as it is unclear whether her father has Macedonian nationality.

Decision & Reasoning

The appeal was dismissed. The court noted that:

"7.1 In support of [the applicant's] view that her father does not hold the nationality of Macedonia (currently: North Macedonia), [the appellant] submitted a statement by an employee of the Ministry of the Interior of the Republic of Macedonia on 27 June 2013. The statement is in response to a request from the Repatriation and Departure Service to admit [the appellant's] father to Macedonia in connection with the intention to deport him. This letter states that admission will be refused because [the appellant's] father is not a national of the country. In its judgment of 14 July 2017, the court ruled that this statement does not provide a definite answer about the nationality of [the appellant], but it does contain information about the nationality of her father. The same applies to a letter from the Immigration and Naturalisation Service (hereinafter: IND) of 3 February 2015, which it submitted. This letter is about the possibilities for the father of [the appellant] to obtain citizenship of Macedonia.

Although these documents may leave doubts as to whether the [appellant's] father is a national of Macedonia (now: North Macedonia), the documents are not sufficient to demonstrate that it is impossible for the father of [the appellant] to have that nationality."

"7.2 Also relevant to the assessment are the nationality laws of the Republic of Macedonia, as it applied at the time of the decision of 18 December 2017. Article 6 of the Law on Citizenship of the Republic of Macedonia provides that nationality of the Republic of Macedonia is obtained by a child found or born in the territory of the Republic of Macedonia, whose parents are unknown or of unknown nationality or stateless. Article 29 provides that a national of the Republic of Macedonia within the meaning of this Act is to be understood as any person who has nationality of the Republic of Macedonia in accordance with the previous legislation.

The court has rightly referred to the judgment of the Division of 17 August 2016, insofar as it has been considered that the text of Article 6 does not exclude that this provision also applies to persons who were born in the territory of Macedonia before the entry into force of this law. This consideration is important because the father of [the appellant] was born in 1961, ie before the entry into force of the law, on the territory of the former Yugoslavia and later Macedonia. This means that it cannot be excluded that he acquired the nationality of Yugoslavia by birth under the nationality laws in force at that time and the nationality of Macedonia (now: North Macedonia) under Article 29."

"7.3. The court rightly considered that, since it cannot be ruled out in this case that the father of [the appellant] has the nationality of Macedonia (now: North Macedonia), it is also not excluded that she has this nationality as a daughter."

Decision documents

[ECLI_NL_RVS_2019_2711.pdf](#)

Outcome

The appeal is dismissed.