



STATELESSNESS

Case Law Database

[France - Bordeaux Court of Appeal, case no. 18BX02582](#)

The applicant was born in the former USSR in the Nagorno-Karabakh region - a contested territory between Azerbaijan and Armenia, and he is ethnically Armenian. He entered France illegally, where he applied for stateless status (after unsuccessful asylum applications), which was rejected by the OFPRA, on the basis that he did not make enough effort to obtain nationalities of either Azerbaijan or Armenia. The Court upheld the administrative decision denying applicant the stateless status.

Case name (in original language) : CAA de BORDEAUX, 1ère chambre Bis - (formation à 3), 23/05/2019, 18BX02582

Case status: Decided

Case number: 18BX02582

Date of decision: 23/05/2019

State: France

Court / UN Treaty Body: Bordeaux Court of Appeal

Language(s) the decision is available in: French

Applicant's country of birth: Azerbaijan

Applicant's country of residence: France

Legal instruments: 1954 Statelessness Convention

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

Relevant Legislative Provisions:

Article 1 of the 1954 Convention relating to the Status of Stateless Persons

Facts

The applicant was born 16 October 1985 in Chahoumian, a town located in the Nagorno-Karabakh region within the Azerbaijani Soviet Socialist Republic (presently

Republic of Azerbaijan) to parents who were themselves born in this region, and who are of Armenian origin. He entered France irregularly on 15 June 2006, and applied for asylum, which was rejected in 2007. Since 2013 the applicant has been benefiting from the residence permits on the basis of "private and family life", which are regularly renewed. On 24 September 2014 he applied for a statelessness status, which was rejected on the 4 March 2016.

Legal arguments by the applicant

The applicant argued that OFPRA limited itself to analysing the black letter law of Azerbaijan, and did not consider his specific circumstances when determining his statelessness. Thereby OFPRA violated Article 1 of the 1954 Convention. He maintained that he has no nationality since no state considers him to be one of its nationals. The provisions of Azerbaijani nationality law do not apply to him, since he was born in the Nagorno-Karabakh region, which proclaimed itself an independent republic, and not on the territory of the Republic of Azerbaijan as an independent state since 1991. Moreover, both his parents are of Armenian origin, and Azerbaijani authorities are hostile to the population of Armenian origin born and living in Nagorno-Karabakh. The applicant further explained that upon the death of his parents in 1992 he was kidnapped and enslaved by a Russian family, therefore he was not in a position to take the steps to apply for Azerbaijani nationality after the law of 30 September 1998 came into force. The applicant moreover argued that he has attempted on numerous occasions to establish contact with the authorities of Azerbaijan, Armenia and Nagorno-Karabakh in 2008, 2012 and 2013, with a view to obtaining documents or at least an official response.

Legal arguments by the opposing party

OFPRA argued that applicant's story is inconsistent, his travel itinerary before arriving in France has not been confirmed, and neither was his claim of having been kidnapped and therefore not having been able to apply for Azerbaijani nationality. OFPRA moreover submitted that the applicant's situation falls under articles 5 and 11 of the law of 30 September 1998 of the Republic of Azerbaijan, as he resided continuously in Azerbaijan from his birth until his departure for France in 2006. Both his parents are ethnically Armenian and citizens of the Republic of Azerbaijan. It has not been established that neither Armenia nor the Republic of Azerbaijan do not consider the applicant as one of their nationals. There is moreover no prove of the applicant's alleged attempts to contact the representatives of these states.

Decision & Reasoning

The Court reasoned as follows:

"It is incumbent on any person availing himself of the status of stateless person to provide proof that, despite repeated and assiduous procedures, the State or States of the nationality of which he avails himself have refused to follow up his procedures."

"As proof that the Azerbaijani authorities refused to recognise him as a citizen, the applicant only supplied copies of the letters sent to them: one of 21 August 2012 and one of 13 December 2013 to the consular services of Azerbaijan in Paris, to the Embassy of Armenia, and to the representation of Nagorno-Karabakh, in which he requested a passport, and submitted a copy of his birth certificate and the family record book of his parents who are of Armenian origin. The applicant also maintains that the only response he received was a letter from the consular service of the Azerbaijani Embassy, neither dated nor signed nor even making any reference to his request, reproducing the terms of the law of 30 September 1998 on Azerbaijani nationality. Even if the applicant has taken steps, they cannot be qualified as repeated and diligent, as there were no follow ups in the context of the absence of explicit responses to his requests, as well as no legal steps were taken to challenge the implicit rejections on his requests. The applicant cannot in this context rely on a letter from Cimade [French NGO], which is undated, and which confirms that the applicants has indeed taken the relevant steps, unsuccessfully, and that the prefect of Haute-Garonne considers it a failure that he has not been issued a residence permit with an entry of "undetermined nationality". Consequently, the applicant does not fall under the scope of article 1 of the convention of New York of 28 September 1954, and his claim that the OFPRA's decision was based on an error of law and an error of assessment is unfounded."

Decision documents

[Bordeaux23May2019.pdf](#)

Outcome

The Court upheld the contested administrative decision rejecting the stateless status.