



[Netherlands - Council of State \(Raad van State\), ECLI:NL:RBDHA:2018:9575](#)

The applicant received asylum status as a stateless Palestinian, but his request to register his statelessness in the municipal civil records was rejected due to lack of evidence. He has an original UNRWA document and an ID from Lebanon, but they were considered insufficient proof of identity as well as of statelessness. The applicant complained that inability to affirm his statelessness violates his identity rights under article 8 ECHR, as well as his rights as a stateless person under EU law, both of which arguments didn't succeed.

Case name (in original language) : ECLI:NL:RBDHA:2018:9575

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Citation:

<https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RVS:2019:4013>

Date of decision: 27/11/2019

State: Netherlands

Court / UN Treaty Body: Council of State of the Netherlands (Raad van State)

Language(s) the decision is available in: Dutch

Applicant's country of birth: Libya

Applicant's country of residence: Netherlands

Legal instruments: European Convention on Human Rights (ECHR), European Union law

Key aspects: Burden of proof, Determination/confirmation of nationality, Establishing identity, Respect for private and family life, Standard of proof, Stateless status and documentation, Statelessness and asylum, Statelessness determination

Relevant Legislative Provisions:

Article 8 of the ECHR

EU Qualification Directive

Facts

The applicant and his son were registered in the Municipal Records (BRP) as having respectively Libyan and Lebanese nationalities. The applicant requested to change both nationality statuses into "stateless", which the municipal authorities refused. Instead, they changed the nationality status into "nationality unknown". In that process the immigration authorities were consulted, who confirmed that the applicants' nationality is unknown. The immigration authorities have never confirmed anyone's statelessness for the purposes of municipal records.

Legal arguments by the applicant

The applicant argued that the refusal to register his statelessness is unjustified. It cannot possibly be right that he obtains an asylum status as a stateless Palestinian from Libya, but his statelessness cannot be registered in municipal records.

He states that his identity and statelessness can be established on the basis of the documents submitted. His identity was never disputed or questioned in the asylum procedure. His UNRWA card, the Lebanese ID card, and the UNRWA statement are the type of documents that are admissible for establishing identity for the purposes of municipal registration. His ID was issued by the Directorate-General for Political Affairs and Refugees of the Lebanese Ministry of Interior and Local Authorities. This body is authorised to issue IDs for Palestinian refugees according to the law in Lebanon. According to the applicant this is confirmed in a report by the UNHCR on the status of Palestinian refugees in Lebanon. Furthermore, UNRWA is the competent authority that provides registration for individuals of Palestinian descent in the region, and their registrations are accurate.

The applicant further relied on an email sent by the immigration authorities to the municipal registry about his case, dated 11 May 2016, which said that: "If the UNRWA card is genuine and those involved in one way or another still identify themselves sufficiently, combination with the birth certificate of the applicant that he has already submitted, in my view, a conclusion of statelessness can be drawn." He argued that all conditions of that email have been fulfilled, and thus

statelessness ought to be concluded.

In addition the applicant submitted that the refusal to register his statelessness violates his rights under article 8 ECHR, as his statelessness as a Palestinian is part of his current legal and personal identity and ought to be recognised and registered.

Lastly, the applicant requested the Court to ask for preliminary ruling from the ECJ to clarify the concept of a “stateless person” under EU, as the restrictive approach to registration of statelessness in the Netherlands may limit his rights as a stateless person under the EU law.

Legal arguments by the opposing party

The authorities argued that the fact that the immigration services have provided contradictory information, including a letter stating that the applicant is stateless, is not a ground for registering statelessness. The applicant has insufficiently demonstrated that he is stateless. The specialist team on nationality as well as the immigration services legal affairs department has examined the files and have come to the conclusion that the nationality of the applicant cannot be determined. The submitted registration card of the UNRWA is not used to determine identity or nationality, according to the immigration documentation office.

Decision & Reasoning

The Court noted that:

“8.4. The Court agrees with the [lower instance] court that the authorities have rightly taken the position that applicant has not sufficiently established his identity with the documents submitted. The UNRWA card, the only document which is available as an original, can undeniably not be used to establish someone's identity [...]. Since only a copy of the Lebanese ID for Palestinian refugees has been submitted, it remains unclear whether this document was issued by the competent authority. Only a copy of the other documents is also available. Those copies are insufficient for identification.”

“8.5. Contrary to what the applicant states, the requirements from the email from the immigration authorities of 11 May 2016 have not been met. After all, he has not met the condition of providing sufficient identification. The Court does not comment

on the correctness of the requirements listed in the e-mail.”

“8.6. The above leads to the conclusion that the [lower instance] court, if only because the municipality was unable to establish the identity of the applicant, correctly considered that the municipality rightly refused to register his statelessness in the municipal records on the basis of the documents submitted.”

Concerning the earlier established statelessness in the asylum procedure, the Court reasoned as follows:

“9.2 [...] Statelessness is not an independent test within the asylum procedure. Only if the immigration authorities are convinced on the basis of the required documents that the person concerned is stateless, will this be communicated. According to the immigration authorities, the applicant has not submitted the required documents. The applicant has not made it plausible, for example by submitting documents from the asylum procedure, that this information from the immigration authorities is incorrect, and that it in fact has been established in the asylum procedure that he is stateless. The fact that it was assumed in the asylum procedure that the applicant is stateless does not mean that statelessness has also been established.”

With regard to violating of article 8 ECHR the Court reasoned as follows:

“10.1 [...] The refusal to register statelessness in the municipal records is not an obstacle for the applicant to present himself as being of Palestinian ethnic identity, contrary to what he claims. It is not clear how the perception of that identity is affected by whether 'nationality unknown' or 'stateless' is registered in the municipal records. As the Court also considered in the [an earlier] ruling mentioned above, it must be borne in mind that the municipal records do not register the ethnic identity of persons [...] Because the ethnic identity is not registered in the municipal records and the applicant is not presenting himself with his ethnic identity, the [lower instance] court has rightly not found any ground for the conclusion that Article 8 of the ECHR has been violated.”

Concerning the request for a preliminary ruling to the ECJ:

“11.1 The applicant has not specified in detail what questions should be asked for a preliminary ruling. When asked, the applicant explained that the concept of stateless person appears in the Qualification Directive, and that this Directive grants certain rights to stateless persons. Even after hearing this explanation it is

not clear which questions should be answered before this dispute can be settled.
[...] there is therefore no reason to refer questions for a preliminary ruling.”

Decision documents

[RvS_27Nov2019.pdf](#)

Outcome

The Court confirmed the decision of the authorities not to register statelessness in the municipal civil records.