



[Luxembourg - Administrative Court, judgment no. 25378C](#)

The applicant made several unsuccessful applications for asylum and other protection statuses in Luxembourg, before applying for a statelessness status. The latter was refused, as the Algerian consular authorities' statement concerning the applicant was interpreted as lack of confirmation of the applicant's identity, not a denial of Algerian nationality to him.

Case name (in original language) : 25378C

Case status: Decided

Case number: 25378C

Citation: <https://ja.public.lu/25001-30000/25378C.pdf>

Date of decision: 02/07/2009

State: Luxembourg

Court / UN Treaty Body: Administrative Court of Luxembourg

Language(s) the decision is available in: French

Applicant's country of birth: Algeria

Applicant's country of residence: Luxembourg

Legal instruments: 1954 Statelessness Convention

Key aspects: Access to social and economic rights, Determination/confirmation of nationality, Burden/standard of proof, Statelessness and asylum, Statelessness determination

Facts

The applicant was born in Algeria. He unsuccessfully applied for asylum in Luxembourg in 2003 and again in 2005. In 2007 he applied for a residence permit on humanitarian grounds, or alternatively a toleration status, both of which were also denied to him. In 2008 he applied to be recognised as a stateless person, also with a negative result. He appealed the decision to the first instance tribunal, and subsequently, upon a negative judgment, to the Administrative Court, resulting in the present judgment.

Legal arguments by the applicant

The applicant argued that the Algerian authorities refused to recognise him as an Algerian national on the grounds that the investigation of his identity has led to a negative result. He does not have valid identification documents, and therefore it is impossible for him to prove the exact situation of his nationality status, and he “no longer has a de facto link of nationality”. He argues that he therefore falls within the definition of a stateless person of Article 1 of 1954 Convention, as he lacks attachment to any country. His situation is comparable to that of “statelessness resulting from a measure of deprivation of nationality” in light of lack of identity papers, and the refusal of Algerian authorities to issue him with any identity papers. He emphasises the difficulties of being a rejected asylum seeker without a right to social assistance in Luxembourg, and being a non-national unable to return to his country of origin.

Decision & Reasoning

The Court reasoned as follows:

“The statelessness status is not evidenced by the applicant’s mere assertion that he is not considered to be a national of any state, but rather by substantive proof, supported by documents, that he is not or is no longer a national of the countries in which he has resided for a long time, the nationalities of which he has lost.”

“[...] the applicant attempts to prove that he has lost the Algerian nationality with a letter from the Algerian consular authorities of 22 April 2008, addressed to the Ministry of Foreign Affairs, in which the consular authorities allegedly refuse to recognise the applicant as an Algerian national, with the following wording:

“I have the honour to inform you that the investigation carried out by the competent Algerian authorities concerning the identification of the individual mentioned in the subject, lead to a negative result. He has, in all likelihood, provided false information. However, if new information concerning this individual reaches you, we will renew the investigation as soon as such information is received.”

“The Court agrees with the analysis of this letter made by [the lower instance court], according to which the Algerian authorities did not deny [the applicant] Algerian nationality, but were merely unable to establish his identity on the basis of the information he provided. The exact identity of a person necessarily precedes the

question of his nationality, given that in order for a state to be able to recognise an individual as a national, first the identity of the person needs to be established beyond reasonable doubt.”

“It is therefore correct that the [lower instance court] determined that the letter from the Algerian authorities does not constitute a refusal of recognition of a nationality or of deprivation of a nationality of the applicant, but rather an impossibility of his identification based on the identity the applicant relies on, and therefore [the applicant] cannot be considered as stateless within the meaning of the New York Convention.”

Decision documents

[Luxembourg_2Jul2009.pdf](#)

Outcome

The Court confirmed the lower instance court's judgment, which confirmed the administrative decision denying the applicant recognition of his statelessness.