



## Italy - Turin Court of First Instance, judgment no. 8874/2019

The applicant was a former asylum seeker, who in 2016 was awarded humanitarian protection by the Territorial Commission of Turing, in recognition to the risk of becoming stateless. The applicant could not obtain citizenship under neither the Ivorian nor the Malian law. For this reason, the Turin Court of First Instance recognised the stateless status of the applicant, under Art.1 of the Convention relating to the Status of Stateless Persons (1954 Convention).

**Case name (in original language) :** Tribunale Ordinario di Torino, Causa n. 8874/2019

**Case status:** Decided

**Case number:** 8874/2019

**Citation:** Italy - Turin Court of First Instance, decision 8874/2019

**Date of decision:** 03/03/2015

**State:** Italy

**Court / UN Treaty Body:** Turin Court of First Instance (Tribunale Ordinario di Torino)

**Language(s) the decision is available in:** Italian

**Applicant's country of birth:** Ivory Coast

**Applicant's country of residence:** Italy

**Legal instruments:** 1954 Statelessness Convention

**Key aspects:** Burden of proof, Determination/confirmation of nationality, Stateless status and documentation, Statelessness determination

**Relevant Legislative Provisions:**

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

Art. 19 bis d.lgs. 150/2011 Controversie in materia di accertamento dello stato di apolidia (Disputes relating the determination of the statelessness status)

### **Facts**

The applicant is of Ivorian origin with Malian parents. The family moved to Mali when the applicant was 15 years old. In 2015, the applicant fled his country of origin to go in Italy. There he applied for international protection. As a result, he obtained a residence permit based on humanitarian grounds due to the risk of statelessness. In 2018 the applicant, brought a claim to the Art.1 of the 1954 Convention to obtain stateless status.

### **Legal arguments by the applicant**

The applicant argued that the court of appeal has not correctly applied art. 115 of the Code of Civil Procedure and Art. 1 of the Convention Relating to the Status of Stateless Persons. The applicant highlighted the fact that in cases of qualification of stateless status, the burden of proof has to be lighter and that the judge can autonomously acquire essential proof.

The applicant held that she had never entered Bosnia and Herzegovina and that she would have never acquired the Bosnian nationality; This was because the legislation, which established for a child born on the Bosnian territory to acquire the citizenship provided that his parents possess the Bosnian Nationality, entered into force in 1995 and the applicant was born in 1986. Accordingly, she filed an appeal ex art. 365 n. 5 Code of Civil Procedure.

### **Legal arguments by the opposing party**

The Government's State Attorney did not appear in front of the court.

### **Decision & Reasoning**

The Court of first instance following the view expressed in the Supreme Court judgement 4262/2015, determined that stateless persons and foreigners should enjoy equal treatment in the Italian legal system. As a result, in Italy a stateless

person is entitled to all fundamental rights recognised to foreigners. In addition, the burden of proof on the stateless applicant should be attenuated. In particular, the judge, due to his officious investigative powers, can autonomously request further information or documentation to the competent authority of Italy or of the Country of Origin or of the country with which the applicant has relevant links.

This principle does not diminish the applicant's prerequisite to demonstrate his stateless status, nor to meet the standard of proof of acquiring it from his country of origin or from another country with which the applicant has relevant links (Supreme court's decision n. 28153/2017).

Accordingly, he had demonstrated that he could not obtain neither the Ivorian nationality nor the Malian one. In fact, regarding the former he needed to have at least one Ivorian parent; for the latter he had to have Malian parents, to be born on Malian territory, and to be registered in the Malian national registry (which for him was impossible due to the premature death of his parents). This has been substantiated with precise references to the Ivorian Nationality Code and to the Malian Nationality Code.

The applicant became orphan before the parents could do the declaration of birth. Consequently, the applicant was stateless because he did not possess any citizenship.

### **Decision documents**

[Tribunale%20torino%208874\\_2019.pdf](#)

### **Outcome**

The Turin Court of First Instance recognised the applicant's stateless status.

### **Caselaw cited**

Cassazione Civile Sezioni Unite Sentenza n. 4262/2015

Cassazione Civile Sezioni Unite Sentenza n. 28153/2017

Cassazione Civile Sezioni Unite Sentenza n. 1183/2018