



[Netherlands - District Court of The Hague, NL19.31932](#)

The State Secretary for Justice and Security has placed the Appellant under detention for the purpose of deportation. The Appellant refutes this claim, stating that he is stateless, so there is nowhere for him to go. The Court states that there can still be a prospect of deportation when the Appellant is stateless.

Case status: Decided

Case number: NL19.31932

Citation: ECLI:NL:RBDHA:2020:564

Date of decision: 20/01/2020

State: Netherlands

Court / UN Treaty Body: The District Court of The Hague ("Rechtbank Den Haag")

Language(s) the decision is available in: Dutch

Applicant's country of birth: Turkey

Applicant's country of residence: Netherlands

Key aspects: Deportation and removal

Relevant Legislative Provisions:

- Article 59, first paragraph, sub a of the Dutch Aliens Act 2000
- Article 5.1b, first, third and fourth paragraph of the Dutch Aliens Decree 2000

Facts

The Appellant claims to be stateless and born in 1961. By decision of 19 December 2019 (the contested decision), the State Secretary for Justice and Security (hereinafter "Defendant") imposed on the Appellant the measure of detention pursuant to Article 59, first paragraph, opening sentence and under sub a, of the Dutch Aliens Act 2000. The Appellant brought an appeal against the contested decision. This appeal also seeks a claim for compensation.

Legal arguments by the applicant

The Appellant disagrees with the contested decision and argues that there is no prospect of deportation because he is stateless. The appellant has substantiated his statelessness with an extract from the Turkish population register dated 8 November 2019. The Appellant further argues that there is no risk that he will evade supervision and that he is cooperating with his deportation. He also argues that he cannot return to Turkey due to his statelessness. In addition, the Appellant argues that he cooperates with his presentation in person - and for that reason has waived his right to be heard in court - and that he has signed the Return and Takeover Request (T&O request) to Turkey. The Appellant specifically contests one ground for his detention, namely that he 'did not or has not sufficiently cooperated in determining his identity and nationality' (subparagraph (d) of article 5.1b of the Dutch Aliens Decree). According to the Appellant, lighter measures should have been imposed on him.

Legal arguments by the opposing party

The Defendant considered that the detention measure imposed on the Appellant is necessary for guaranteeing public order, as there is a risk that the Appellant might evade supervision of local authorities, and because the Appellant is either avoiding or hindering deportation proceedings. Referring to article 5.1b, first, third and fourth paragraph of the Dutch Aliens Decree 2000 (hereinafter "Aliens Decree"), the Defendant stated the detention measure imposed on the Appellant is necessary (as described in article 5.1b, paragraph 1, 3 and 4 of the Aliens Decree) as the following serious grounds were applicable to the Appellant:

- did not enter the Netherlands or attempt to do so in the manner prescribed by law;
- has for some time and in violation with the Dutch Aliens Act 2000, evaded supervision of the local authorities; has previously received a visa (from a different country), decision, or notification stating the obligation to leave the Netherlands and that he has not voluntarily agreed to do this within the set term;
- did not or has not sufficiently cooperated in determining his identity and nationality;
- has indicated that he will not comply with his obligation to return;

It also considered that the following light grounds applied to the Appellant:

- does not comply with one or more obligations applicable to him as stated in chapter 4 of the Dutch Aliens Decree 2000;
- has submitted several applications for the issue of a residence permit that have not resulted in the granting of a residence permit;
- does not have sufficient means of financial support;
- is suspect of a crime, or has been convicted of it.

Decision & Reasoning

The District Court of the Hague finds that the Appellant has contested only one serious ground. Even without that ground, there are enough grounds to justify the imposed detention measure. In the opinion of the Court, the undisputed grounds give rise to a risk that the Defendant might evade supervision and obstruct the preparation of the removal procedure. The Court accepted the Defendant's statement that the Appellant (according to his own statement) has evaded supervision.

The Court considered that deportation proceedings can also be applied in case the person is stateless. The Defendant may investigate whether the Appellant can return to his country of origin or any other country where his admission is guaranteed, as the Administrative Jurisdiction Division of the Council of State has decided in the decision of 30 October 2009 (ECLI:NL:RVS:2009:BK2272). The Court follows the Defendant's position that a laissez-passer can also be issued by the Turkish representation as a claimant is stateless. According to the judgment of the Division of 30 May 2016 (ECLI:NL:RVS:2016:618), the Defendant is allowed to investigate whether the Appellant can be deported to that country on the basis of the indication that the Appellant was born in Turkey. The Court is of the opinion that there is a prospect of deportation.

With regard to the request for less restrictive measures, the Court is of the opinion that, given the grounds on which the measure was based, the Defendant rightly took the view that in this case no other effective measure could have been applied. The Defendant substantiated this at the hearing by stating that the Dutch Repatriation and Departure Service (hereinafter "DT&V") considered the imposition of lighter measures, but concluded that they should not apply taking into consideration the fact that the Appellant did not possess an identity document and

did not cooperate sufficiently. As the Appellant did not comply with either of these elements, the Court accepted the Defendant's argument.

Decision documents

[ECLI NL RBDHA 2020 564.pdf](#)

Outcome

The application was rightly rejected as unfounded, therefore the request for compensation of damages has also been denied.

Links to other relevant materials related to the case (blogs, analysis, articles, reports, etc.)

<https://english.dienstterugkeerenvertrek.nl/>

Caselaw cited

Judgment of the Administrative Jurisdiction Division of the Council of State of 30 October 2009 (ECLI:NL:RVS:2009:BK2272)

Judgment of the Division of 30 May 2016 (ECLI:NL:RVS:2016:618)