

France - Conseil d'Etat, Assemblée, Judgment No. 427017

A Palestinian refugee was living in Lebanon and benefited from the protection of UNRWA, before moving to and applying for statelessness status in France. The Conseil d'Etat quashed a decision to grant the applicant statelessness status because it did not mention whether the applicant no longer continued to benefit from UNRWA's effective protection. The Conseil d'Etat ruled on the conditions of eligibility of Palestinian refugees for statelessness status and identified three hypothesis in which a Palestinian refugee who is outside UNRWA's area of activity must be considered as no longer effectively benefiting from the protection or assistance of this agency.

Case name (in original language) : Conseil d'État, Assemblée, 24/12/2019, 427017

Case status: Decided

Case number: 427017

Citation: France, Conseil d'Etat, (Judgment No. 427017), 24 December 2019

Date of decision: 24/12/2019

State: France

Court / UN Treaty Body: Conseil d'Etat

Language(s) the decision is available in: French

Applicant's country of birth: Lebanon

Applicant's country of residence: Lebanon

Legal instruments: 1954 Statelessness Convention, European Convention on Human Rights (ECHR)

Key aspects: Protection, Statelessness and asylum

Relevant Legislative Provisions:

- Convention relating to the Status of Stateless Persons, New York, 28 September 1954 - Article 1
- European Convention on Human Rights (ECHR) - Article 8

- Code of entry and stay of foreigners and asylum law (le code de l'entrée et du séjour des étrangers et du droit d'asile, CESEDA) - article L812-1
- Code of Administrative Justice

Facts

The applicant, born of Palestinian parents in 1986 in a refugee camp in Lebanon, lived there until 2015. In 2015 the applicant travelled to France using documents provided by the Lebanese authorities. The applicant asked for recognition of her status as a stateless person in front of the OFPRA (French bureau for the protection of refugees and stateless persons) based on Article L812-1 of the Code de l'Entrée et du Séjour des Etrangers et du Droit d'Asile (CESEDA), but this requested was denied. The applicant brought the case in front of the Administrative Tribunal of Paris to annul this decision. On 19 April 2017 the Administrative Tribunal of Paris answered favourably to the applicant, it annulled the OFPRA decision and ordered it to grant the applicant status as a stateless person. OFPRA appealed the decision, but the Administrative Court of Appeal rejected the appeal on 13 November 2018. The OFPRA appealed again in front of the Conseil d'Etat (Supreme French Administrative Court).

Legal arguments by the applicant

The applicant argues that she should be granted status as a stateless person based on the provisions of Article L.812-1 of the CESEDA. This article states that statelessness status is granted in accordance with the definition of Article 1 of the New-York Convention Relating to the Status of Stateless Persons.

Legal arguments by the opposing party

The opposing party argues the same as what the Conseil d'Etat decided. Its other arguments were not developed in the decision.

Decision & Reasoning

Article 1(2) of the 1954 Convention relating to the Status of Stateless Persons states that the Convention does not apply to persons who benefit from an effective protection of a UN institution. The United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) was created by resolution n° 302 of the UN General Assembly on 8 December 1949 with its mission to bring help to

Palestinian refugees in Lebanon, Syria, Jordan, the West bank of Jordan and the Gaza strip. As such, the Court noted that UNRWA is a UN institution as defined by Article 1(2) of the 1954 Convention.

Therefore, the Court examined whether the applicant was benefiting from the effective protection of UNRWA. In doing so it considered three hypothesis under which a person is considered not to be effectively protected by UNRWA:

- Firstly, when a grave threat for the Palestinian refugee's safety forced him/her to leave the State or territory under the jurisdiction of UNRWA in which the refugee had its permanent residence and prevents him/her from returning to its territory of residence;
- Secondly, when such a threat, even if it appeared after the refugee's departure, prevents him/her from returning;
- Thirdly, when for reasons independent from the refugee's will and not related to a threat to the refugee's safety, a Palestinian refugee finds it impossible to reach the State or territory in which he/she had permanent residence.

In addition, and having regard to the requirements of Article 8 ECHR, the Conseil d'Etat noted that a Palestinian refugee who has family or personal ties in France must also be considered as no longer effectively benefiting from the assistance or protection provided by UNRWA in its area of operation, and is eligible to apply for the status of stateless persons under Article L812-1 of the CESEDA. In order to assess eligibility for protection, the courts must take into account family or personal ties in France, the length of the refugee's stay in the country, and the fact that the centre of their interests is now in France. If these criteria are fulfilled, assuming that no exclusion clauses apply, a refugee who based their application for statelessness status under article L812-1 of the CESEDA would consequently lose the effective protection of UNRWA.

Decision documents

[Conseil d'État, Assemblée, 24 12 2019, 427017.pdf](#)

Outcome

The Conseil d'Etat quashed the Administrative Court of Appeal's decision granting the applicant the status as a stateless person because the Administrative Court of Appeal did not mention in its reasoning whether the applicant lost or did not continue to benefit from the effective protection of UNRWA. Hence the Conseil d'Etat referred the case back to the Administrative Court of Appeal for it to decide in light

of these findings.

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

Giulia Bittoni, Blog 'Can a Palestinian refugee enjoy the status of a stateless person? A French perspective', 13 March 2020:

<https://www.statelessness.eu/updates/blog/can-palestinian-refugee-enjoy-status-stateless-person-french-perspective>