

France - Marseille Administrative Court, judgment no. 08MA03194

Mr. B and Mrs. C, a married couple who got recognised as stateless by OFPRA, did not mention they had a daughter (Miss A, the applicant) when applying for statelessness status. When Miss A also applied for a statelessness status, and provided a birth certificate proving that Mr. B and Mrs. C are her parents, OFPRA denied her application, partially because they doubted the parental relations, and partially because they considered that she did not take the necessary steps to get recognised as a national by either Italy or the successor states of Yugoslavia - where her parents are from. The Court ruled that OFPRA based its decision on an error of assessment, and ordered it to grant Miss A the statelessness status.

Case name (in original language) : N° 08MA03194

Case status: Decided

Case number: N° 08MA03194

Date of decision: 11/03/2010

State: France

Court / UN Treaty Body: Marseille Administrative Court

Language(s) the decision is available in: French

Applicant's country of birth: Italy

Applicant's country of residence: France

Legal instruments: 1954 Statelessness Convention

Key aspects: Birth registration, Standard of proof, Statelessness determination

Facts

The applicant (Miss A) was born in 1984 in Italy, and entered France in 2004. Applicant's parents, Mr. B and Mrs C, both originally from former Yugoslavia and have been recognised by the OFPRA as stateless persons. The applicant's statelessness status has been denied, as OFPRA was doubting that Mr. B and Mrs C are in fact her parents. The reason for the doubt was that the parents did not declare that they had a daughter in their statelessness application. The applicant

had a birth certificate issued in Italy which listed both parents, but OFPRA didn't see it as sufficient proof. Moreover, OFPRA argued that the applicant has not taken the necessary steps to be recognised as a national by her presumed country of birth - Italy, or by any of the successor states of Yugoslavia.

Decision & Reasoning

The Court reasoned that the fact that Mr. B and Mrs C did not mention their daughter in their application is not necessarily a proof that they are not the applicant's parents, especially since the applicant - Miss A - was of the age of majority at the time Mr. B and Mrs. C applied for the recognition of their statelessness status. On the other hand, Miss A submitted a document, issued in 1998 in Gugliano (Italy), attesting that she was born in Rome in 1984 and that Mr. B and Mrs C are her parents. The authenticity and the content of the said document are not disputed by the parties. Moreover, it is established that the parents were not recognised as stateless at the time of birth of the applicant, and consequently, contrary to what OFPRA based its decision on, the applicant was not entitled to Italian nationality on the basis of relevant Italian law. The rejection of the applicant's request to be recognised as stateless was therefore based on an error of assessment.

Decision documents

[Marseille Administrative Court, judgment no. 08MA03194](#)

Outcome

The Court annulled OFPRA's decision and ordered OFPRA to recognise the applicant as stateless within 1 months of the date of the judgment.