

France - Paris Administrative Court, case no. 09PA00158

A Palestinian refugee in France applied for a statelessness status, which was rejected by OFPRA as it considered that the applicant falls under the exclusion grounds of Article 1(2) of the 1954 Convention. The Court annuls OFPRA's decision, stating that the applicant no longer enjoys the protection of UNRWA after having left the West Bank, and that the voluntary nature of his departure from UNRWA territory does not amount to him having voluntarily placed himself in the situation of statelessness.

Case name (in original language) : N° 09PA00158

Case status: Decided

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Date of decision: 10/12/2009

State: France

Court / UN Treaty Body: Paris Administrative Court

Language(s) the decision is available in: French

Applicant's country of birth: Palestine

Applicant's country of residence: France

Legal instruments: 1954 Statelessness Convention

Key aspects: Statelessness determination

Relevant Legislative Provisions:

Article 1 of the 1954 Convention on the Protection of Stateless Persons

Facts

Applicant is a Palestinian refugee, Mr. A, born on the 1st of February 1968 in Tobass, West Bank. He entered France on the 29th of February 2003 on a travel document issued by the Palestinian national authority, and has remained in France since. On the 16th of February 2006 he made an application for a statelessness status,

which was rejected on the 22nd of July 2008, on the grounds that he has his habitual residence in an area of UNRWA mandate and therefore falls under the exclusion grounds of Article 1(2) of the 1954 Convention. The applicant requested a judicial review of the decision, but did not submit a sufficient required number of copies of relevant documents, and therefore the first instance declared his case inadmissible. The court also failed to respond to the applicant's request for legal aid. The applicant appealed the first instance court decision to the Paris Administrative Court, which issued the judgment summarised here.

Decision & Reasoning

The Court ruled in favour of the applicant, annulling the first instance Court decision of inadmissibility, as well as OFPRA's decision to deny recognition of the statelessness status. The Court reasoned as follows:

"Considering, on the other hand, that it emerges from the documents in the file that Mr. A had presented before the Administrative Court of Paris a request for legal aid; and by not having forwarded this request to the legal aid office the Court has cast doubt on the lawfulness of its decision"

"It follows from [Article 1 of the 1954 Convention] that a person located outside the area of UNRWA mandate cannot benefit from the assistance or protection of the latter, and is, therefore, eligible to benefit from 1954 Convention"

"It is not disputed that Mr. A, a Palestinian refugee, originates from the Palestinian territory, which does not constitute a State, and that he therefore has no nationality. Mr A had been living in France since 2003. OFPRA committed an error of law by reasoning that because the applicant lacks a residence permit in France, he therefore cannot be regarded as residing in France, and instead needs to be regarded but as having retained his habitual residence in an area of UNRWA mandate, and that he is therefore excluded from the scope of protection of the 1954 Convention. By stating that it cannot consider cases where the person places himself in a situation of statelessness, OFPRA concludes that the applicant has voluntarily renounced the protection offered by UNRWA solely because Mr. A has had habitual residence in an area of UNRWA mandate. It follows from the above that Mr. A's request to cancel the contested decision is well-founded"

Decision documents

[10Dec2009ParisAdministrativeCourt_overrulesOFPRA.pdf](#)

Outcome

The Court annuls the judgment of the first instance court and the decision of OFPRA.