



## [France - Bordeaux Court of Appeal, case no. 10BX00116](#)

Applicant was born on the territory of what is now Kosovo, and is of Roma origin. He was unable to access Kosovar nationality due to discrimination against Roma, and he was not accepted by the Kosovar authorities when France attempted to expel him. His application for stateless status was rejected by OFPRA, as he did not demonstrate having made sufficient efforts to obtain Kosovar or Serbian nationality, and this decision was upheld by the Court.

**Case name (in original language) :** 10BX00116

**Case status:** Decided

**Case number:** 10BX00116

**Date of decision:** 01/02/2011

**State:** France

**Court / UN Treaty Body:** Bordeaux Court of Appeal

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

**Applicant's country of birth:** Kosovo

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

**Legal instruments:** 1954 Statelessness Convention

**Key aspects:** Burden of proof, Deportation and removal, Discrimination, Residence permit, Standard of proof, Statelessness determination

**Relevant Legislative Provisions:**

Article 1 of the 1954 Convention

Articles 3, 6 and 14 of the ECHR

### **Facts**

The applicant is of Roma origin, was born in 1981 in Klina town - now the Republic of Kosovo. His parents were also born in Yugoslavia on Kosovar territory. He lived in Germany for several years, where his asylum requests were denied twice. He

entered France on 28 June 2005, and applied for asylum, but his application was rejected. France attempted to expel him to Kosovo, but the Kosovar authorities refused to admit him. On 3 July 2007 he applied for a statelessness stays, which was also rejected on 21 January 2009.

### **Decision & Reasoning**

The Court dismissed the applicant's procedural arguments, finding that the relevant signature was not missing, but is merely masked by a stamp, which is insufficient ground for questioning the procedural validity of the decision. The court moreover found that the decision contained was well-motivated.

As to the content of the decision, the Court reasoned as follows:

"Considering that the applicant has argued that Kosovo discriminates against the Roma community that he was faced with numerous adverse circumstances preventing him from accessing Kosovar nationality, that he was equally unable to acquire Serbian nationality at the time of conflict between Serbian and Kosovo, and that he found himself de facto stateless; that, however, the applicant has not established that he has taken the necessary steps to ensure that Kosovo, where he was born, just like his parents, or Serbia, where he lived for many years, would recognise him as one of their nationals; that thus, even if his being Roma made such processes difficult, the applicant cannot successfully maintain that by rejecting his request OFPRA would have disregarded the aforementioned provisions of Article 1 of the New York Convention of September 28, 1954, or would have made an incorrect assessment of the situation; that the fact that the Kosovo authorities, following a deportation order of a magistrate of Haute-Vienne, refused to let him in cannot establish that the applicant is stateless within the meaning of the provisions of the Article 1 of the New York Convention dated September 28, 1954;"

"Considering, moreover, that under Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, no one may be subjected to torture or to inhuman or degrading treatment or punishment; that by maintaining that he cannot access his country of birth, Kosovo, to apply for Kosovar nationality, and that the status of stateless person is refused to him by France, the applicant does not establish that he would be subjected to degrading treatment within the meaning of Article 3 ECHR;"

"Considering that Mr. X also does not establish that by rejecting his request for

stateless status, OFPRA has disregarded the provisions of Article 13 of the ECHR on effective remedy, or has taken a discriminatory decision against him because of his Roma origin; nor does he demonstrate that the procedure to obtain statelessness status what was initiated in July 2007 was unreasonable lengthy so as to violate the stipulations of Article 6 of the ECHR;"

### **Decision documents**

[Bordeaux1Feb2011.pdf](#)

### **Outcome**

The court upheld the administrative decision rejecting the stateless status of the applicant.