



France - Nancy Administrative Court of Appeal, case no. 18NC00383

The applicant was born in Syria, where he was involved in violence in the context of an armed conflict. During his life in France he was convicted of multiple crimes and served prison sentences. His application for the statelessness status was rejected for two reasons - firstly, he did not show sufficient efforts to obtain or confirm his Syrian nationality, and secondly he fell under the exclusion clauses of the 1954 Convention - the latter having been the reason for rejecting his asylum claim too. The Court upheld the administrative decision on both grounds.

Case name (in original language) : CAA de NANCY, 2ème chambre - formation à 3, 18/10/2018, 18NC00383

Case number: 18NC00383

Date of decision: 18/10/2018

State: France

Court / UN Treaty Body: Nancy Administrative Court of Appeal

Language(s) the decision is available in: French

Applicant's country of birth: Syria

Applicant's country of residence: France

Legal instruments: 1954 Statelessness Convention

Key aspects: Burden of proof, Exclusion grounds, Residence permit, Respect for private and family life, Standard of proof, Statelessness and asylum, Statelessness determination

Relevant Legislative Provisions:

Article 1 of the 1954 Convention relating to the Status of Stateless Persons

Facts

The applicant was born in 1959 in Syria, and entered France in 1989. In 1998 he was sentenced twice to 3 years and 18 months imprisonments with ban from French

territory for 10 years, for acts of theft, degradation, threat of death and fraud. On 17 January 2001, he was sentenced by the Assize Court of Paris to 16 sixteen years of imprisonment for murder, and the sentence expired in October 2010. In January 2010 he applied for a refugee status or the benefit of subsidiary protection, but his request was rejected on 4 January 2011. On 20 November 2013 he applied for a stateless status, indicating that he had been stripped of his Syrian nationality, which was rejected on 9 May 2016.

Legal arguments by the applicant

The applicant argued that OFPRA have provided insufficient reasons for its decision, and did not conduct a thorough examination of his situation. He claims that he has been stripped of Syrian nationality and cannot obtain a Syrian passport, and that his current administrative situation has grave consequences for his personal life.

Legal arguments by the opposing party

OFPRA argued that the applicant's reasons are not well-founded

Decision & Reasoning

The Court rejects the applicants argument that OFPRA did not investigate the personal circumstances of the applicant or did not sufficiently motivate its decision.

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

"4. Concerning the applicant's second argument, it must be noted that under Article 1 of the New York Convention of September 28, 1954 relating to the status of stateless persons: "(...) The term " stateless person" refers to a person who is not considered as a national by application of a state's legislation. / 2. This Convention shall not be applicable: (...) iii) To persons for whom there are serious reasons to believe (...) b) That they have committed a serious international crimes outside the country of their residence before being admitted there; c) That they are guilty of acts contrary to the purposes and principles of the United Nations. " Article R. 723-1 of the code of entry and stay of foreigners and the right to asylum reads: "the French Office for the protection of refugees and stateless persons determines the status of a refugee or a stateless person and grants the benefit of subsidiary protection ". Article L. 812-1 of the code of entry and stay of foreigners and the right of asylum, created by law n ° 2015-925 of July 29, 2015 reads: "The status of a

stateless person is granted to any person who meets the definition of Article 1 of the New York Convention of September 28, 1954, relating to the status of stateless persons. These persons are governed by the provisions applicable to stateless persons by virtue of this convention.". It is the responsibility of a person applying for statelessness status to provide proof that despite repeated and diligent efforts, a State with which he was primarily connected has refused to grant him nationality despite those efforts."

"5. In its decision of 9 May 2016 rejecting the applicant's statelessness status OFPRA explained, on the one hand, that the applicant, who declares to have been born on the 1st of December 1959 in Damascus (Syrian Arab Republic), to a Syrian father and a Lebanese-Syrian mother, did not provide any evidence establishing that he would no longer have the Syrian nationality, and on the other hand, that he did not establish that he has taken the necessary steps to have that State recognise him as one of its nationals. Moreover, OFPRA indicated that the actions of the applicant within a militia in Lebanon from 1980 to 1985 fall under the exclusion clauses provided for in Article 1 of the New York Convention of September 28, 1954."

"6. Considering that it is not disputed that the applicant is a Syrian national from birth; that he claims to have been stripped of Syrian nationality, and is wanted in his country for having committed crimes; that the applicant submits a translation of a family civil status file mentioning that the applicant was "deprived of his civil status". He also submits letters exchanged between the Ministry of Foreign Affairs and the Syrian authorities. It appears from the documents of the file that by letter of February 11, 2009, the embassy of the Syrian Arab Republic in Paris, addressed to the social services supervising the applicant at the end of his criminal sentence, indicated that the applicant could receive a laissez-passer for removal to Syria but that the Syrian authorities could not grant a Syrian passport in the event that he wished to remain in France. The letter of March 31, 2009, the prefecture of Pas-de-Calais informed the Ministry of Foreign Affairs of the a telephone call with consular agent, where the refusal of the Syrian authorities to issue a Syrian passport to the applicant if he wished to remain on French territory was confirmed. The claim that the applicant was deprived of his Syrian nationality cannot be sustained by this one document, supported by reports of remarks made orally a consular agent. It not contested, as OFPRA correctly argues, that Articles 21 et seq. of the law on Syrian nationality of 24 November 1989 provides that the deprivation

of nationality is pronounced by a decree. The mere reference to "deprivation of civil status" in a civil status document is not sufficient to evidence the loss of Syrian nationality. The applicant has thus not proven that he had been deprived of Syrian nationality."

"7. Considering that in addition, by letter of April 3, 2012, the Syrian authorities specified to the prefecture of the Vosges their refusal to grant a laissez-passer to the applicant, and indicated that the applicant could get in touch with the to verify the accuracy of his statements; that the applicant, who was aware of this letter, did not mention having approached the competent authorities with a request to be issued a Syrian passport or to have his Syrian nationality confirmed, nor did he provide any piece of evidence that would to establish a refusal of his requests by the Syrian authorities; that the mere fact that the consular authorities refused to issue a laissez-passer cannot establish that he does not have Syrian nationality; that thus, the applicant's situation does not fall under the scope of the aforementioned Article 1 of the Convention of New York."

"8. Considering moreover, as has been established by OFPRA in its decision of January 4, 2011 that the applicant acknowledged in the context of the investigation of his asylum application that he had joined the Amal militia in Lebanon as a mercenary, and committed crimes in a context of war; that he also admitted having committed two serious international crimes in Syria by torturing and killing two soldiers; that under these circumstances OFPRA was right to conclude that the exclusion clause of paragraph 2 of Article 1 of the New York Convention is applicable to the applicant."

"10. Considering lastly that the decision which grants or refuses to grant the status of a stateless person does not in itself aim or result in conferring or withdrawing the applicant's right to stay in France; that consequently the applicant's claim that he cannot integrate and live in France can only be dismissed as ineffective;"

Decision documents

[Nancy18Oct2018.pdf](#)

Outcome

The Court upholds the administrative decision - primarily on the basis of lack of effort by the applicant to obtain/confirm Syrian nationality, and as a secondary argument that the applicant also falls under the exclusion clauses of Article 1 of the 1954 Convention.