



[Bulgaria - Sofia City Administrative Court, Sager Al-Anezi v. State Agency for Refugees](#)

The case concerns the appeal by the stateless person from Kuwait, Mr. Sager Al-Anezi, against the decision of the asylum authorities in Bulgaria to reject his application for international protection as manifestly unfounded under a fast-track procedure carried out while Mr. Al-Anezi was placed in detention for removal. By a final judgment, the Sofia City Administrative Court allowed the appeal of Mr. Al-Anezi. The court judgment contains inter alia detailed analysis on the significance of the right to nationality as a fundamental human right; the application of the 1951 Convention relating to the Status of Refugees to stateless persons and the situation of Bidoon in Kuwait.

Case name (in original language) : Сагър Ал Анези срещу интервюиращ орган в Държавната агенция за бежанците

Case status: Decided

Case number: 1460/2019

Date of decision: 08/03/2019

State: Bulgaria

Court / UN Treaty Body: Sofia City Administrative Court

Language(s) the decision is available in: Bulgarian

Applicant's country of birth: Kuwait

Applicant's country of residence: Bulgaria

Legal instruments: 1954 Statelessness Convention, 1961 Statelessness Convention, European Union law, International Covenant on Civil and Political Rights (ICCPR), Other international law

Key aspects: Deportation and removal, Detention, Stateless status and documentation

Relevant Legislative Provisions:

- 1951 Convention relating to the Status of Refugees
- 1954 Convention relating to the Status of Stateless Persons

- Article 15 of the Universal Declaration on Human Rights
- Articles 2 and 9 of the Convention on the Elimination of All Forms of Racial Discrimination
- Article 24, para.3 of the International Covenant on Civil and Political Rights
- 1961 Convention on the Reduction of Statelessness
- Articles 31-33 of the Vienna Convention on the Law of the Treaties
- Article 4, para.3 of Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted
- Bulgarian Law on Asylum and Refugees

Facts

Mr. Sager Al-Anezi is a stateless person ('Bidoon") from Kuwait who graduated Medicine in Bulgaria. He had entered Bulgaria and had obtained a residence permit on the basis of a Ghanaian passport that his parents bought from a 'Ghanaian representation" in Kuwait when he was a minor. Once the Ghanaian passport expired while Mr. Al-Anezi was in Bulgaria, he could not renew it. Mr. Al-Anezi applied for the status of stateless person in Bulgaria, but he was detained for removal as an irregular immigrant when he went to check the progress of his statelessness application. Fearing that he might be forcibly returned to Kuwait and subjected to arbitrary arrest there, he applied for international protection from the detention centre where he was placed for removal. Following one interview with him at the detention centre, the asylum authorities rejected Mr. Al-Anezi's application as manifestly unfounded and found that Ghana was a safe country for him to be returned. Mr. Sager Al-Anezi appealed that decision of the asylum authority in court.

Legal arguments by the applicant

The applicant presented evidence that both his mother and father were born in Kuwait and that his father was stateless, while his mother could not pass her nationality on him. He presented country of origin information on the practices of buying other countries' passports by Bidoon in Kuwait in order to remedy their situation of being treated as illegal immigrants in Kuwait. He explained that he was born in Kuwait, too, and had no legal or social connection with Ghana.

Legal arguments by the opposing party

The asylum authority claimed that Mr. Sager Al-Anezi was a citizen of Ghana as he had (although expired) a Ghanaian passport.

Decision & Reasoning

"According to Art. 15 of the Universal Declaration of Human Rights, everyone has the right to a nationality. According to Art. 5 of the International Convention on the Elimination of All Forms of Racial Discrimination in accordance with the Essential Obligations referred to in Art. 2 of this Convention, States Parties undertake to prohibit and eliminate racial discrimination in all its forms and to guarantee the right of everyone to equality before the law, especially in the enjoyment of the following rights - the right under para. d, iii, is the right to citizenship. According to Art. 24, para. 3 of the International Covenant on Civil and Political Rights, every child has the right to acquire citizenship. According to Art. 9 of the Convention on the Reduction of Statelessness, Contracting States may not deprive a person or group of persons of their nationality on racial, ethnic, religious or political grounds. The importance of citizenship as a fundamental human right is particularly clear in the words of E. Warren (more than half a century ago), a judge of the US Supreme Court, who stated that "citizenship is a fundamental human right because without citizenship, people lose the ability to access their rights. " The center of refugee law is that those who have a legitimate fear of persecution in their country of origin and cannot rely on their own government to protect their fundamental rights may seek international protection. Refugees may have passports, but this circumstance does not protect them either, because they are de facto stateless persons as long as there is a risk of persecution and therefore they need the surrogate protection given to them by the Refugee Convention and international refugee law (Goodwin-Gill, 2007). In fact, stateless persons are deprived of their rights and owing to the fact that no government recognizes them as nationals of the country concerned, they should be identified as vulnerable persons."

"In fact, refusals of entry back to the country of birth, refusals to issue birth certificates, inability to obtain travel documents are just examples of the protection that stateless persons need. In this regard, and in many cases, stateless persons have a legitimate fear of persecution, which fear provided that it is for any of the reasons set out in the first paragraph of Article 1 (A) of the Geneva Convention, according to which the term "refugee" applies to any person who, "owing to well-founded fear of being persecuted for reasons of race, religion, nationality,

membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it", justifies the application of the rules of refugee law. That provision undoubtedly presupposes that it applies to a person who is outside the country of which he is a national and cannot benefit from the protection of that country or does not wish to enjoy such protection because of these concerns, or, being stateless and out of the country of his former habitual residence as a result of such events, he cannot return or, for such fears, does not wish to return to it. In this way, the Refugee Convention undoubtedly includes stateless persons."

"The mere fact that a person is stateless does not, of course, mean that he or she shall be considered a refugee (in this sense *Revenko v Secretary of the State for the Home Department*, Court of Appeal, Civil Division, England and Wales)"

"Consequently, the interviewing authority should consider the importance of citizenship as a fundamental human right when deciding, given the fact that the mere fact that a stateless person cannot attribute his or her status to a refugee, provided that no legitimate fear is demonstrated of persecution for one of the reasons set out in the Refugee Convention. Following this, as stated above in the reasoning of this judgment, the interviewer should, in a subsequent decision, answer the following questions: 1) whether the applicant can be identified as stateless, 2) whether could be accepted by the authorities in the emirate of Kuwait, 3) whether stateless or so-called Bidoon are at risk of persecution, 4) whether the particular circumstances surrounding the applicant's refugee history could put him or her at risk of persecution, 5) whether in principle the Bidoon in Kuwait base their fear of persecution on any of the causes specified in the Refugee Convention (race, religion, nationality, political opinion or membership of a particular social group)."

"In view of the possible applicability of the exclusion clauses of the Convention and the fact that the applicant had a passport of a citizen of the Republic of Ghana in those proceedings, it does not in any way justify a conclusion for committing a crime of obtaining or using a false passport."

"Although, during the interview, the foreigner stated that his problems stemmed from the fact that he was a stateless person and from the situation of stateless

persons in Kuwait, this fact was not investigated by the interviewing authority."

(Unofficial translation from Bulgarian)

Decision documents

[Sager Al-Anezi v. State Agency for Refugees](#)

Outcome

By a final judgment, the Sofia City Administrative Court allowed the appeal of Mr. Al-Anezi.

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

Ilareva, Valeria (2019), Stateless persons in Bulgaria still face arbitrary detention, LockedInLimbo ENS blog

Batha, Emma (2019), Bulgaria urged to stop locking up stateless people by detained heart doctor, Reuters

Caselaw cited

- Revenko v Secretary of the State for the Home Department, Court of Appeal, Civil Division, England and Wales
- Matter of Acosta (1985, United States)
- Ward (1993, Canada)
- Attorney General of Canada v Patrick Francis Word, Federal Court of Appeal Decision, March 5 1990