



[Spain - National Court \[Audiencia Nacional\] \(Contentious-administrative Chamber, 5th section\) appeal no. 265/2019 \(ECLI:ES:AN:2020:68\), 5 February 2020](#)

The National Court (*Audiencia Nacional*) confirmed the rejection of the applicant's statelessness status on the ground that the presumption of Mauritanian nationality, derived from the fact that the applicant held a Mauritanian passport, had not been rebutted.

Case name (in original language) : Audiencia Nacional, Sala de lo Contencioso-Administrativo, no. 265/2019, 05/02/2020

Case number: 265/2019

Citation: Spain - National Court [Audiencia Nacional] (Contentious-administrative Chamber, 5th section) appeal no. 265/2019 (ECLI:ES:AN:2020:68), 5 February 2020

Date of decision: 05/02/2020

State: Spain

Court / UN Treaty Body: National Court [Audiencia Nacional] (Contentious-administrative Chamber, 5th section)

Language(s) the decision is available in: Spanish

Applicant's country of residence: Spain

Key aspects: Stateless status and documentation, Statelessness determination

Facts

The applicant applied for statelessness status in 2016, which was rejected in 2018. After an appeal for reconsideration was lodged and time had elapsed without notification of a decision, it was understood to have been dismissed by administrative silence, and the case was referred to the courts.

Decision & Reasoning

The National Court (*Audiencia Nacional*) dismissed the administrative appeal filed against the dismissal, by administrative silence, of the appeal for reconsideration against the decision of the Undersecretary of the Interior, issued by the delegation of the Ministry of the Interior, denying the applicant's statelessness status.

The refusal is based essentially on the fact that, although the applicant holds four passports from three different authorities, Mauritania, the Sahrawi Arab Democratic Republic, and Algeria, the passport from Algeria does not confer nationality, as it only serves to facilitate travel to countries which, like Spain, do not recognise the Sahrawi Arab Democratic Republic and it cannot be accepted as a valid document in Spain. Passports issued by Mauritania retain the presumption of nationality of the holder of a passport, a presumption that has not been rebutted, without every Saharawi, by the mere fact of being Saharawi, lacking nationality, with the result that, in this case, the applicant is recognised as a national by a State, specifically Mauritania.

The *Audiencia Nacional* has applied the criteria of the Supreme Court, which has declared that the recognition of statelessness is linked, as stated in Article 1.1 of the Regulation on the recognition of statelessness status, approved by Royal Decree 865/2001 of 20 July, 'to the circumstance that the applicant 'is not considered as a national by any State, in accordance with its legislation''. This clause is fully consistent with the reference to the 1954 Statelessness Convention in both the regulatory provision and the legal provision which it implements, since Article 1.1 of this Convention states that 'the term stateless person shall mean any person who is not considered by any State, in accordance with its legislation, to be its national'. In the light of these provisions, and without requiring the applicant for statelessness status to show that the country of nationality does not recognise them as a stateless person, it cannot be ignored that statelessness is only applicable to a person 'who is not considered by any State, in accordance with its legislation, as its national'. Therefore, beyond the mere statement by the applicant that they lack nationality, there must be some information that indicates the existence of the circumstance indicated in the rule, since without it, the recognition of statelessness status is inappropriate (Supreme Court judgment of 22 December 2008).

The *Audiencia Nacional*, in its conclusion, dismissed the appeal, as it considered that the presumption of Mauritanian nationality derived from the existence of a passport issued by the Mauritanian authorities and reinforced in the present case by the issuance of a second passport by the same authorities, has not been rebutted in the

sense of proving that, despite the fact that he holds that title, that State does not consider him to be a national and that it has only provided him with that documentation in order to facilitate his movements, unlike the case of persons of Sahrawi origin who obtain an Algerian passport, regardless of the fact that the 'position of Mauritania and Algeria with regard to Western Sahara' is different.

Decision documents

[Judgment](#)

Outcome

The *Audiencia Nacional* dismissed the appeal and confirmed the rejection of the application for statelessness status.

Caselaw cited

Spanish Supreme Court judgment of 22 December 2008