



France - Nantes Administrative Court of Appeal, case no. 14NT01490

The applicant was born in Taiwan, and entered France as an unaccompanied minor on a "borrowed" passport. Her application for stateless status was rejected, as she did not make sufficient effort to obtain Chinese nationality. OFPRA also relied on the applicant having had a "double identity" in France and therefore being untrustworthy, and on the fact that France does not recognise Taiwan as an independent state.

Case name (in original language) : CAA de NANTES, 4ème chambre, 10/11/2015, 14NT01490

Case status: Decided

Case number: 14NT01490

Date of decision: 10/11/2015

State: France

Court / UN Treaty Body: Nantes Administrative Court of Appeal

Language(s) the decision is available in: French

Applicant's country of birth: Taiwan

Applicant's country of residence: France

Legal instruments: 1954 Statelessness Convention

Key aspects: Birth registration, Burden of proof, Childhood statelessness, Standard of proof, Statelessness determination

Facts

The applicant was born in 1992 in Taipei (Taiwan). She speaks Mandarin. She lived in Datong District with her parents until their death in the course of the year 2000, She was then cared for by a family member until the age of 14, and lived in the streets after. She agreed to follow a smuggler who "loaned" her a passport and brought her to France in October 2008. She requested to be recognised as stateless on 24 February 2011 which was rejected on 12 August 2013.

Legal arguments by the applicant

The applicant argued, among others, that OFPRA committed an error of law by only considering her situation under the law of September 10, 1980 of the People's Republic of China on the granting of Chinese Nationality, and not under the Taiwanese law. She moreover submits that she has made repeated and diligent efforts to communicate with competent administrative authorities of both Taiwan and China in order to obtain her and her deceased parents' birth certificates, with a view to being recognised as a Taiwanese or a Chinese national. Her statelessness is sufficiently evidenced by her lacking any identity documents or a birth certificate.

Legal arguments by the opposing party

OFPRA argued that none of the applicant's arguments are founded. OFPRA motivated its rejection of the statelessness status by stating that the applicant did not provide any document to establish her identity and date of birth. Moreover, the fact that she travelled on a "borrowed" passport and was known in France under a double identity shed doubt on the sincerity of her request. OFPRA assumed that she has Chinese nationality, and nothing in the applicant's testimony amounted to questioning this assumption. According to OFPRA, the refusal to issue a birth certificate by the civil status registry in Taipei does not lead to establishing her statelessness.

Decision & Reasoning

The Court reasoned as follows:

"5. [The applicant] did not approach the authorities of the People's Republic of China prior to the contested decision, while Article 4 of the Chinese Nationality Law of September 10, 1980 reads : "Anyone who was born in China and whose parents are Chinese citizens or one of them is a Chinese citizen, has Chinese nationality.". The applicant merely submitted documents that indicate that the Chinese authorities could not issue her a passport since she did not hold any identity documents. This does not establish that the competent Chinese authorities have refused to recognise her as a Chinese national. Under these circumstances, especially considering that France does not recognise the "Republic of China" and regards Taiwan as a province of the People's Republic of China, OFPRA did not commit an error of law when applying aforementioned Chinese law on nationality of 10 September 1980 to the applicant, refusing to recognise her as stateless."

Decision documents

[Nantes10Nov2015.pdf](#)

Outcome

The Court upheld OFPRA's decision refusing to recognise the applicant as stateless.