

Regulation for the Recognition of the Status of Stateless 865/2001 of 20 July (Informal translation)

Introductory chapter

Article 1: Recognition of the status of stateless

1. Stateless status will be recognised according to the contents of the 1954 Convention on the Status of stateless, to every person that is not considered to be a national of any state, according to its law, and who claims to lack a nationality. In order to make such recognition effective, the requirements foreseen in the present regulation must be met and the procedure hereby set up must be followed.
2. This status will not be recognised under any circumstance to those who fall under article 1.2 of the said Convention.

First Chapter

The application and its effects

Article 2: Commencement of the procedure

1. The procedure will be initiated ex officio by the authority or by an application from the person concerned who claims to lack a nationality.
2. It will be initiated ex officio when the Office for Asylum and Refuge has knowledge of facts, data or information that may indicate that the circumstances that determine the recognition of stateless status may exist. In this case the Office for asylum and Refuge (OAR) will duly inform the applicant so that he may have the opportunity to submit his allegations.
3. When the procedure is initiated upon an application by the person concerned, the application will be addressed to the Oar and it will be lodged before any of the following administrative bodies without prejudice to article 38.4 of the law on the administrative procedure (which establishes the places where administrative applications can be lodged).
 - a) Aliens Offices
 - b) Police Stations
 - c) Office for Asylum and Refuge

Article 3. Application Requirements

1. The application must meet the requirements of article 70 of the law on the administrative procedure. Also, it must be accompanied by the identity and travel documents that the applicant may have or a justification as to the lack of such documents.
2. The application must also contain a clear a detailed exposition of the facts, data and allegations that are deemed necessary in support of the application and in particular mention must be made to the place of birth, the family relationship with other persons who do have a nationality of a State, and to the habitual place of residence in any other State and the length of the same.

3. The address mentioned in the application will be considered as the habitual place of residence for notification purposes. The applicant must inform the OAR, the earliest possible, any change of address that may take place during the processing of the claim.

Article 4. Time to lodge an application.

1. The application must be lodged within one month of having entered Spanish territory, except for the case when the alien enjoyed lawful stay in Spain for a longer period, in which case the application may be lodged before the period of lawful stay elapses. When it is a "sur place" claim, the one-month time period will start from the moment when the circumstances that caused the application took place.
2. When the applicant has remained in an irregular manner for over a month, or has lodged his claim already having an expulsion order issued against him, the application will be may be presumed manifestly unfounded. This will be taken into account when writing the final proposal to the competent authority.

Article 5. Provisional residence authorisation

During the processing of the claim the applicant who is on Spanish Territory may be authorised provisional permanence, provided he is not involved in an expulsion or return procedure. The appropriate document will be issued.

Article 6. Minors

1. When the applicant is a minor declared to be in a vulnerable situation (unaccompanied by an adult) according to the civil legislation, s/he will be handed to the Minors Protection Services of the concerned Autonomous Community and the Minors Protection Department of the central Government authority.
2. The public authority that exercises the minor's tutorship will represent him/her during the procedure of recognition of stateless status.
3. In any case, without prejudice to the application of the special rules on the protection of minors, it is given that the minor's permanence in Spanish territory during the processing of the claim will be authorised.

Chapter II

Article 7. Investigatory Phase

1. The investigatory phase of the procedure will be carried out by the OAR. During the processing of the claim the applicant will continue to enjoy the rights and authorisations he may be entitled to according to the general aliens legislation.
2. The applicant must fully collaborate during the investigatory phase in the proving, confirmation, and verification of any relevant issue for the determining of stateless status.
3. Applicants may be assisted by an interpreter during the processing of the claim. This service will be free of cost for those who can prove to lack economic means.

4. During the processing of the claim the applicant may be required to present him/herself to the authorities in order to be interviewed.
5. The competent Public Administration body will inform the OAR on any procedure or fact that may affect the applicant for stateless status.

Article 8. Proof, allegations and reports.

1. During the processing of the claim, the applicant may present as many pieces of evidence and complementary information as he deems appropriate, and lodge allegations that he may consider convenient in support of his claim.
2. The legally recognised Associations for the advice and aid of Stateless may issue reports to the authorities in support of applications for stateless status.
3. In carrying out its investigatory function, the OAR may request as many reports as it deems appropriate from the Central Administration bodies as well as from any other national or international entity.

Article 9. Hearing

1. once the procedure has been completed the applicant will be informed so that within the next 15 days s/he may make further allegations or hand in any document or justification deemed appropriate.
2. This phase may be omitted when no other facts or allegations other than those made by the applicant exist or have been considered by the authority.

Article 10. Proposal on the Outcome

Once the investigatory phase has been concluded by the OAR, the latter will forward its proposal on the outcome of the application, adequately motivated and individualised to the Minister of the Interior, through the General Direction for Alien and Immigration issues.

Article 11. Resolution

1. The Minister of the Interior will issue a decision within three months maximum. If that time frame is elapsed and a decision on the application for recognition of stateless status has not been issued, it can be considered as rejected (negative administrative silence) in accordance with the additional provision of law 4/2000 on the rights of Aliens, modified by law 8/2000.
2. The resolution will be notified to the applicant within the time frame mentioned in the above paragraph, in the terms foreseen by the law on the administrative procedure.
3. The positive resolution will imply the recognition of stateless status in the terms foreseen by the 1954 Convention on the status of Stateless persons.
4. The rejection of an application will imply the application of the general aliens legislation.

Chapter III

Situation of Recognised Stateless persons

Article 12. General Obligation

Every stateless person must respect the Spanish Constitution and the Spanish legal system.

Article 13. Residence and work.

1. Recognised Stateless persons are entitled to reside in Spain and to work and carry out professional and commercial activities in accordance with the aliens legislation.
2. The competent authority will issue a recognised stateless identity card, which will entitle the holder to reside in Spain and to work and carry out professional and commercial activities, as well as the travel Document foreseen by article 28 of the 1954 Convention on the Status of stateless persons. The travel document will be valid for two years.
3. The OAR will adopt the necessary measures to monitor and control that in accordance with article 25 of the 1954 Convention, stateless persons are issued by the competent authority those documents or certificates that would otherwise be issued to Aliens by their national authorities or through their consular representations.

Article 14. Family Reunification.

The recognised stateless person will be entitled to request the reunification with the family members mentioned under article 17.1 of the Aliens law, 4/2000 modified by law 8/2000 in accordance with the requirements foreseen by its implementing decree.

Article 15. revocation.

1. The OAR will initiate the demarches to revoke the decision whereby stateless status is recognised when it has been obtained by means of data, documents or statements that are found not to be true through others that are found out after the recognition and that are considered essential to determine the final decision.
2. Revocation will also be agreed when after the recognition there are well founded reasons to consider that the beneficiaries fall under any of the causes of paragraphs i),ii) and iii) of article 1.2 of the 1954 Convention on the Status of Stateless persons.
3. Once the revocation procedure has been concluded, the Council of Ministers will decide, upon the Minister of Interior's motivated proposal.

Article 16. Cessation of status

1. Stateless status will cease automatically when any of the following takes place:
 - a) When the stateless person has acquired Spanish nationality.
 - b) When the stateless person has been considered as a national of another State or the State where s/he has fixed his residence grants him/her rights and obligations which are equivalent to the possession of that State's nationality.
 - c) When his "stay" and permanence in the territory of another State that has documented him/her as stateless has been recognised .

1. When the existence of any of the causes mentioned above is proved, the Minister of the Interior will cease the benefits of the 1954 Convention on the Status of Stateless persons, upon the Oar's proposal.

Article 17. Aliens Registry

1. the application, recognition or rejection of Stateless status will be registered in the Aliens Central Registry.
2. The application will be registered upon issuing the applicant with the documentation foreseen by this decree.

Article 18. Expulsion.

1. Stateless persons can be expelled form Spanish territory in the terms foreseen by article 31 of the 1954 Convention and in accordance with the procedure foreseen by the general Aliens legislation.
2. In any case the person to be expelled will be granted the maximum time frame established by the Aliens Legislation to seek legal admission in another country.

End.

Free Translation made at BO Madrid.