



**EASO COI QUERY
FINAL ANSWER**

WESTERN SAHARA / MOROCCO/ ALGERIA

Date of the query 22 October 2015
Completion date 16 November 2015

Question/Subject

Sahrawi citizenship/nationality in Western Sahara, Morocco and Algeria.

- 1. Do the Moroccan authorities consider a Sahrawi born in the Tindouf refugee camp in Algeria, and whose parents were also born in this camp, to be a Moroccan national? [We have received advice that a person born in Tindouf whose parents were born in Western Sahara would be considered as a Moroccan national]**
- 2. Do the Moroccans give nationality to those Sahrawis who do not accept Morocco's sovereignty over Western Sahara?**
- 3. Does Morocco claim sovereignty over all of Western Sahara, or just the territory of Western Sahara that does not include the territory controlled by the SADR (bearing in mind the SADR claim sovereignty over all of Western Sahara)? Hence, are Sahrawis born in the SADR considered Moroccan by the Moroccan authorities?**

Preliminary search (Websites and sources checked by the requesting EU+ country)

Useful information can be found on an [EMN response on Sahrawis](#).

Context /Background

Disclaimer

The response to this COI query has been elaborated according to the EASO COI Query User Guide, the Common EU Guidelines for Processing COI and the EASO COI Report Methodology. The information provided has been researched, evaluated and processed with utmost care within a limited time frame. However, this document does not pretend to be exhaustive neither conclusive as to the merit of any particular claim to international protection status. If a certain event, person or organization is not mentioned in the response, this does not mean that the event has not taken place or that the person or organization does not exist.

Terminology used should not be regarded as indicative of a particular legal position.

The information in the report does not necessarily reflect the opinion of EASO and makes no political statement whatsoever.

The target end users are case workers, COI researchers, policy makers, and decision making authorities.

The answer was finalized in Malta, on 16 November 2015. Any event taking place after this date is not included in this answer.

Contributing Countries

The final answer is based on information provided by COI experts from DE, NL, SE, SI and EASO.

Answer

Background

According to the 2011 EUDO Citizenship Observatory Country Report on Morocco¹:

'In 1979, the Western Sahara was officially considered Moroccan by Morocco, which extended its citizenship law there. (...)'

Question 1

Do the Moroccan authorities consider a Sahrawi born in the Tindouf refugee camp in Algeria, and whose parents were also born in this camp, to be a Moroccan national? [We have received advice that a person born in Tindouf whose parents were born in Western Sahara would be considered as a Moroccan national].

No up to date public information could be found about the Moroccan government practice. Some information is available, though, on the Algerian government.

According to [translated] information provided by the Swiss Refugee Council² on nationality in Western Sahara:

'To be able to travel outside the camps in Algeria, the refugees need a travel authorization from the Algerian authorities, usually valid for three months. Although SADR provides also passports, these are only accepted by countries which have recognized the Sahrawi Arab Democratic Republic (SADR). As a result, Sahrawi refugees travel outside their local area only with Algerian passports. For humanitarian reasons, Algeria issues passports to enable them to travel to countries which have not recognized the SADR. The Algerian passports are specially marked and do not include citizenship. According to refugees it takes months, if not years, to get an Algerian passport. Once refugees return to Algeria, their passports are confiscated and they can be picked up again later. (...)

¹ Perrin, D., *Country Report: Morocco*, European University Institute, Florence Robert Schuman Centre for Advanced Studies, EUDO Citizenship Observatory, October 2011, p. 6, <http://eudo-citizenship.eu/docs/CountryReports/Morocco.pdf>, accessed 4 November 2015

² Schweizerische Flüchtlingshilfe - SFH: Western Sahara: Nationality, p. 6- 7, 10 August 2015, <https://www.fluechtlingshilfe.ch/assets/herkunftslaender/afrika/westsahara/150810-dars-staatszugehoerigkeit.pdf>, accessed 5 November 2015

In recent years the Spanish Supreme Court has always recognised the Sahrawis as stateless. In September 2013, the Spanish Ministry of the Interior also recognised Sahrawis as stateless. The Spanish Supreme Court argues that people born after 1975 in a refugee camp in Algeria did not receive Algerian citizenship. Although Sahrawi refugees have an Algerian passport, this document can only be used to enter countries which did not recognise SADR. That conclusion is also e Supreme Court also assumes that because the Sahrawis and their families have fled the controlled part of the Western Sahara by Morocco before the Moroccan occupation’.

According to information published on the website of the Algerian Ministry of Justice³, Algerian nationality can be acquired under specific criteria:

‘(...) Acquisition of Algerian nationality: (...) Any alien who has reached the legal age (19 years) and justified his residence and integration into Algerian society can make a request to Minister of Justice, Lord Chancellor, for the acquisition of Algerian nationality either by marriage (Art. 9a) or by naturalisation (Art. 10) of the Code of Algerian nationality (...)’.

Question 2

Do Moroccans give nationality to those Sahrawis who do not accept Morocco’s sovereignty over Western Sahara?

Bronwen Manby⁴, in her 2009 publication ‘Struggles for Citizenship in Africa’⁵, indicates that:

‘Moroccan legislation prohibits attacks on the kingdom’s “territorial integrity”, and activists for Western Saharan independence still face harassment, including deprivation of travel and nationality documents. For example, Brahim Sabbar, a human rights activist documenting violations in Western Sahara, spent a decade in prison in the 1980s, and from 2000 to at least 2007 was denied a passport. A group of Sahrawis were deprived of their passports for several years after they attempted to travel to Geneva to participate in UN human rights activities in 2003, though they have since been permitted to travel again. More recently, Sahrawi activists employed in civil service jobs have been refused permission by their employers to take leave in order to travel.’

According to CNN News⁶, Sahrawi activists who decline to recognize Morocco’s sovereignty over Western Sahara risk losing their Moroccan passport, as was the case of Sahrawi award-winning independence activist Aminatou Haidar, whose entrance in Morocco was refused and her passport seized by the Moroccan authorities.

Question 3

Does Morocco claim sovereignty over all of Western Sahara, or just the territory of Western Sahara that does not include the territory controlled by the SADR (bearing in mind the SADR claim

3

³ République Algérienne Démocratique et Populaire, Ministère de la Justice, Nationalité, undated <https://www.mjjustice.dz/html/?p=nationalite>, assessed 10 November 2015

⁴ Bronwen Manby’s biography and publications can be found at: University of London, London School of Economics and Political Science, School for the Study of Human Rights, http://www.lse.ac.uk/humanRights/whosWho/bronwen_manby.aspx, accessed 16 November 2015

⁵ Manby, B., *Struggles for Citizenship in Africa*, October 2009, Zed Books, (chapter 8. Naturalization and long-term integration, p. 153-156), in <https://www.opensocietyfoundations.org/publications/struggles-citizenship-africa>, accessed 16 November 2015

⁶ CNN News, *Independence activist returns home to Western Sahara*, 18 December 2009, <http://edition.cnn.com/2009/WORLD/africa/12/18/sahara.activist.hunger.morocco/>, accessed 5 November 2015

sovereignty over all of Western Sahara)? Hence, are Sahrawis born in the SADR considered Moroccan by the Moroccan authorities?

According to March 2012 Anouar Boukhars⁷ paper, *Simmering discontent in the Western Sahara*⁸:

‘The territory was divided into a heavily fortified Moroccan zone, constituting 85 percent of the territory and protected by defensive walls (called “berms”) built in the mid-1980s and manned by 150,000 soldiers. The Polisario controls the remainder of the area, deemed by Morocco as a buffer zone and of no strategic or economic value.’

The publication *The Reconceptualization of European Union Citizenship*⁹, focused on the challenges of integration and EU-citizenship, states:

‘The people of Western Sahara continue to be trapped by the lack of a definition of their citizenship status. (...) According to Moroccan law, those Saharans living in the area under Moroccan control are Moroccan nationals, thus eligible for passports and other official Moroccan documents. (...) Another group (of unknown size) of Western Saharans obtained Mauritanian nationality, and the remainder (notably those living in refugee camps and the territories under SADR) obtained identity documents from the authorities of the SADR, which permit them to travel to few countries recognizing the self-proclaimed Sahrawi Republic (which include Mauritania). Finally, and in special situations, the Algerian authorities issue short term travel documents to Saharan refugees needing to travel to countries that do not recognize the SADR’.

According to *Struggles for Citizenship in Africa*¹⁰, a publication by Bronwen Manby:

‘Those who remained in their homes in Western Sahara and oppose Morocco’s *de facto* control of the territory face significant restrictions on their civil liberties, including in some cases the right to identity papers and travel documents. (...)The SADR issues national identity cards to Sahrawis living in the refugee camps and the territories under SADR control, and those who wish to travel abroad are granted Sahrawi passports, with which they can travel to the few countries recognizing the Sahrawi Republic, including Mauritania. The government of Algeria issues short-term passports to Sahrawi refugees who need to travel – usually for reasons of medical treatment, family unification, and so on – to countries that do not recognize the SADR.

These passports are obtained by applying to the Algerian authorities via the SADR bureaucracy, but are only travel documents and do not imply recognition of the refugees as Algerian citizens. Group permit schemes also allow many thousands of Sahrawi children to travel each year to Spain, Venezuela, Cuba, Italy and other countries to be hosted by families

4

⁷ Anouar Boukhars’ biography, analysis and publications can be found at: Carnegie Endowment for International Peace, <http://carnegieendowment.org/experts/?fa=772>, accessed 16 November 2015

⁸ Boukhars, A., *Simmering discontent in the Western Sahara*, Middle East, Carnegie Endowment March 2012, http://carnegieendowment.org/files/western_sahara.pdf, accessed 5 November 2015

⁹ Guild, E., Rotaecche et al, *The Reconceptualization of European Union Citizenship, Immigration and Asylum Law and Policy in Europe*, Martinus Nijhoff Publishers, Leiden, Boston, 9 January 2013, p. 160-161, <https://books.google.com/books?id=LmO2AgAAQBAJ&printsec=frontcover&hl=pt-BR#v=onepage&q&f=false>, accessed 16 November 2015

¹⁰ Manby, B., *Struggles for Citizenship in Africa*, October 2009, Zed Books, (chapter 8. Naturalization and long-term integration, p. 153-156), in <https://www.opensocietyfoundations.org/publications/struggles-citizenship-africa>, accessed 16 November 2015

offering solidarity with the refugees. An unknown number of Sahrawis also have citizenship in Mauritania, where many have family or other ties. (...)

Those Sahrawis living in the area under Moroccan occupation are under Moroccan law Moroccan nationals eligible for travel and other documentation; moreover, the Moroccan nationality code does not allow for an individual to renounce Moroccan citizenship except as authorized by decree. Since 1977, the inhabitants of the Western Saharan territories occupied by Morocco have also been able to participate in Moroccan national and regional elections. Many Sahrawis, however, reject Moroccan nationality and continue to protest against Moroccan administration of the territory.'

List of used sources

Anouar Boukars' biography, analysis and publications can be found at: Carnegie Endowment for International Peace, <http://carnegieendowment.org/experts/?fa=772>, accessed 16 November 2015

Boukhars, A., *Simmering discontent in the Western Sahara*, Middle East, Carnegie Endowment for International Peace, March 2012, http://carnegieendowment.org/files/western_sahara.pdf, accessed 5 November 2015

CNN News, *Independence activist returns home to Western Sahara*, 18 December 2009, <http://edition.cnn.com/2009/WORLD/africa/12/18/sahara.activist.hunger.morocco/>, accessed 5 November 2015

Council of Europe: Parliamentary Assembly, *Parliamentary contribution to resolving the Western Sahara conflict*, 6 June 2014, Doc. 13526, in <http://www.refworld.org/docid/53f1fefb4.html>, accessed 10 November 2015

Guild, E., Rotaeche et al, *The Reconceptualization of European Union Citizenship, Immigration and Asylum Law and Policy in Europe*, Martinus Nijhoff Publishers, Leiden, Boston, 9 January 2013, p. 160-161, <https://books.google.com.mt/books?id=LmO2AgAAQBAJ&printsec=frontcover&hl=pt-BR#v=onepage&q&f=false>, accessed 16 November 2015

Manby, B., *Struggles for Citizenship in Africa*, October 2009, Zed Books, (chapter 8. Naturalization and long-term integration, p. 153-156), in <https://www.opensocietyfoundations.org/publications/struggles-citizenship-africa>, accessed 16 November 2015

Pennel, C.R., *Morocco since 1830, A History*, 2000, in <https://books.google.com.mt/books?id=QtBazz017uYC&pg=PA28&lpg=PA28&dq=bilad+al-siba&source=bl&ots=wAYRaaLKZj&sig=nxBPbPleVvajsIBnepxq5ogf93o&hl=pt-BR&sa=X&ved=0CB4Q6AEwAGoVChMIsKGovtCFyQIVQX8PCh2RCQNR#v=onepage&q=bilad%20al-siba&f=false>, assessed 10 November 2015

Perrin, D., *Country Report: Morocco*, European University Institute, Florence Robert Schuman Centre for Advanced Studies, EUDO Citizenship Observatory, October 2011, p. 6, <http://eudo-citizenship.eu/docs/CountryReports/Morocco.pdf>, accessed 4 November 2015

République Algérienne Démocratique et Populaire, Ministère de la Justice, Nationalité, undated <https://www.mjustice.dz/html/?p=nationalite>, accessed 10 November 2015

Schweizerische Flüchtlingshilfe - SFH: Western Sahara: Nationality, p. 6- 7, 10 August 2015, <https://www.fluechtlingshilfe.ch/assets/herkunftslaender/afrika/westsahara/150810-dars-staatszugehoerigkeit.pdf>, accessed 5 November 2015

Other sources mentioned by contributing countries (not included in the query response)

Canada: Immigration and Refugee Board of Canada, *Morocco: Whether a Sahrawi whose parents were born in Sahara, who is now living outside Morocco and who spent several years in the Sahrawi camps in Algeria, has a right to Moroccan citizenship; if not, whether this person would have problems returning to Morocco; whether, upon returning to Morocco, a Sahrawi can relocate anywhere in Morocco*, 19 October 2000, MAR35608.E, available at:

<http://www.refworld.org/docid/3df4be6529.html> [accessed 2 November 2015]

Deutscher Bundestag - Wissenschaftliche Dienste: International legal status of Western Sahara, 12 July 2011,

<https://www.bundestag.de/blob/191996/ba00742c91f3e9bf307af06f15e00dc4/westsahara-data.pdf>

Human Rights Watch (2014): *Off the Radar, Human Rights in the Tindouf Refugee Camps*, October 2014,

<https://www.hrw.org/sites/default/files/reports/algeria1014web.pdf>

Debeche, S., *The international legality of the Western Sahara Issue: The objective and non-negotiable solution of a referendum*, 2009, Western Sahara Conference Proceedings, Faculty of Political Sciences and Information, University of Algiers, 14 June 2011, available at:

<http://www.unisa.ac.za/contents/faculties/law/docs/09debeche.pdf>