

## Sweden - Migration Court of Appeal, 29 of January 2018, UM8384-16

**Country of Decision:**

Sweden

**Country of Applicant:**

Algeria

**Date of Decision:**

29-01-2018

**Citation:**

UM8384-16

**Additional Citation:**

MIG 2018:3

**Court Name:**

Migration Court of Appeal

**Keywords:**

Refugee Status

Stateless person

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**Relevant Legislative Provisions:**International Law > [1951 Refugee Convention](#) [1] > [Art 1A](#) [2]International Law > [1951 Refugee Convention](#) [1] > [Art 1D](#) [3]European Union Law > [EN - Recast Qualification Directive, Directive 2011/95/EU of 13 December 2011](#) [4] > [Article 21](#) [5]

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**Headnote:**

The Appellant applied for asylum in Sweden on the basis of being a refugee as per his registration at the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). Alternatively the appellant argued that his need for protection should be judged against his previous residency in in Syria. The main issue faced by the court was whether the appellant?s normal place of residence should be considered as Syria or Algeria, and thus against which of these two countries the appellant?s need for protection should be judged.

The Court deemed Algeria to be the appellant's normal place of residence based on his formal and non-formal ties to the country as well as his 18 months stay in the Algeria prior to coming to Sweden. Based on this the court did not deem the appellant to have the required need for protection and denied his appeal.

**Facts:**

The Appellant is a stateless Palestinian who is born and raised in a refugee camp in Syria. He is registered at the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA).

The Appellant applied for asylum in Sweden in 2014. Prior to making his way to Sweden he spent approximately 18 months in Algeria where he had a right of residence that could be renewed every 3 months.

The Appellant's wife and son were legally residing in Algeria at the start of the proceedings.

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**Decision & Reasoning:**

The Court approached the case in two stages.

First, the Court considered whether the appellant should be granted status as a refugee on the basis of his registration at UNRWA.

Second, as the court found that the registration at UNRWA was insufficient to grant the appellant protection, his case was tried according to the Swedish law on Aliens 2005:716.

As such, the court focused on establishing where the appellants' normal place of residency was.

**The Court reasoned:**

The Appellant had not used the protection and the aid from UNRWA in the recent times before he applied for asylum in Sweden. This means that the exception from the Geneva Convention Art 1 D and Art. 12 does not apply to the appellant. Because he is not eligible for the exception, his application for asylum will be judged on the basis of the law on Aliens.

Furthermore, the court rejected the appellant's argument that his normal place of residency was Syria. Instead they held that the appellant's normal place of residency should be considered as Algeria. The court gave the following reasons for this decision:

- i) Algeria was the most recent country that the appellant resided in before his arrival in Sweden
- ii) The Appellant has a formal tie to the country since his marriage is registered in Algeria.
- iii) Throughout the 18 months that the appellant resided in Algeria he was granted a right to reside for three months with a mechanism that made it possible to renew that right continuously. No information was available indicating that the Algerian government tried to end the appellants stay in the country after he stopped applying for such a right to reside.
- iv) From the information available to the court, Palestinians are treated well in Algeria and they have access to education, healthcare and have the opportunity to work to the same extent as Algerian citizens.
- v) the appellant has personal ties to the country as he is married to an Algerian citizen and his son has the right to Algerian citizenship.
- vi) The appellant has contacts in the country through his own family as well as the family of his wife.
- vii) The Appellant have, together with his wife, travelled to Algeria in connection with the birth of

their son with the intention that the son would be born in Algeria in order to facilitate the son's ability to obtain Algerian citizenship.

viii) The Appellant's one and a half year stay in Algeria is to be considered a long enough period to create a connection to society to the extent that Algeria can be considered the appellant's normal place of residency.

Subsequently the Migration Court of Appeal agreed with the Migration Court's judgement that the appellant's necessity for protection should be judged against his situation in Algeria.

The appellant had not supported that he was in need of protection from his circumstances in Algeria or that he would be at risk of being sent to another country from Algeria where he would be put at such a risk that warranted Swedish protection.

Consequently, the appellant could not be considered a refugee nor in need of protection and his appeal was thereby denied.

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**Outcome:**

Appeal Denied. Appellant deported to Algeria.

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**Attachment(s):**

[Miöd statslös palestinier Syrien Algeriet \(1\) 29.01.2018 Palestine unwra.pdf](#)[6]

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**National / Other Legislative Provisions:**

[Sweden - Chapter 4. 1 §](#) [7]

[2 § and 2 a §](#) [8]

[Law on Aliens \(2005:716\)](#) [9]

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**Links:**

[1] <http://www.asylumlawdatabase.eu/en/content/1951-refugee-convention>

[2] <http://www.asylumlawdatabase.eu/en/content/1951-refugee-convention#1>

[3] <http://www.asylumlawdatabase.eu/en/content/1951-refugee-convention#1d>

[4] <https://www.asylumlawdatabase.eu/node/4038>

[5] [https://www.asylumlawdatabase.eu/node/4038#toc\\_247](https://www.asylumlawdatabase.eu/node/4038#toc_247)

[6]

<https://www.asylumlawdatabase.eu/sites/default/files/aldfiles/Mi%C3%B6d%20statsl%C3%B6s%20palest>

[7] <https://www.asylumlawdatabase.eu/en/national-and-other-legislation/sweden-chapter-4-1-%C2%A7>

[8] <https://www.asylumlawdatabase.eu/en/national-and-other-legislation/2-%C2%A7-and-2-%C2%A7>

[9] <https://www.asylumlawdatabase.eu/en/national-and-other-legislation/law-aliens-2005716>