

Summary and recommendations

related to the right to a nationality and the rights of stateless persons in The Netherlands



KinderrechtenCollectief



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The coalition of co-submitting organisations welcome the opportunity to present the statement on issues relating to statelessness and the right to nationality in The Netherlands.¹ The Netherlands is a state party to both the 1954 Convention on the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. As of January 2021, an estimated 6,000 persons are registered as stateless, meaning they are not considered as a national of any State under the operation of its law. However, fully reliable data on statelessness in the Netherlands remains absent. No data is available of stateless persons in immigration detention, and a larger group of 31,000 persons are registered as having ‘nationality unknown’, which can include stateless people who are not registered as such due to the lack of a statelessness determination procedure.

On 31 May 2022, the Dutch House of Representatives adopted two bills on statelessness in the Netherlands, which will hopefully enter into force later this year, but are not fully in line with international obligations under the 1954 and 1961 Statelessness Conventions, as well as the Convention on the Rights of the Child. These bills contain a statelessness determination procedure (SDP) that will allow for explicit identification of statelessness by a civil court. The procedure will be open to all stateless people on the territory who wish to have their statelessness identified, but will not provide a residence permit or protection status after statelessness is determined. In the Third cycle, the Netherlands received a recommendation from Haiti to ‘expedite efforts to introduce a statelessness determination procedure *and provide persons recognised as stateless with legal status and access to basic human rights*, in full consultation with key stakeholders’.

Further, the bills will expand the ‘option procedure’ for stateless children born in the Netherlands without a residence permit to access a facilitated pathway to acquiring Dutch nationality. The expanded option procedure will, however, require stable, principal residence for a period of at least five years (compared to three years ‘lawful’ residence for children with a residence permit). The child and their parent(s) must also have fully cooperated with the immigration authorities, including in the context of deportation proceedings, for residence to be considered stable. The Committee on the Rights of the Child urged the Netherlands to ‘ensure that all stateless children born in its territory, irrespective of residency status, have access to citizenship without any conditions. *In particular, the Committee recommends the Netherlands not to adopt the proposed requirement of parents’ cooperation with the authorities*’.²

The co-submitting organisations therefore propose the following recommendations:

1. Introduce additional safeguards in Dutch nationality law, policy and practice to ensure that stateless children born in the Netherlands acquire Dutch nationality in line with the obligations under the Convention on the Rights of the Child and the 1961 Convention on the Reduction of Statelessness.
2. Ensure that children born in the Netherlands have their nationality status determined and only remain registered as having ‘unknown nationality’ for the shortest possible period.
3. Make provision for an effective statelessness determination procedure in line with UNHCR guidance and good practice standards which automatically leads to the granting of a residence permit, at least for the duration of the procedure, and protects all rights under the 1954 Convention relating to the Status of Stateless Persons.

¹ The co-submitting organisations are ASKV Refugee Support, New Women Connectors, Bhutanese Community in the Netherlands, Stichting Landelijk Ogedocumenteerden Steunpunt, Petkovski, Leiden University (Prof. P. Rodrigues), Kinderrechten Collectief, Vluchtelingenwerk Nederland, European Network on Statelessness, Institute on Statelessness and Inclusion.

² CRC/C/NDL/CO/4, para. 33, Concluding observations on the fourth periodic report of the Netherlands.