

Statelessness and refugees in the Netherlands

Country Briefing



European
Network on
Statelessness



Institute on
Statelessness and
Inclusion





WHY IS STATELESSNESS RELEVANT TO THE FORCED DISPLACEMENT DEBATE IN EUROPE?

Statelessness is a hidden problem affecting many refugees arriving in Europe. According to [Eurostat](#), of the four million people who applied for asylum in the EU in 2015-2018, more than 115,000 were recorded as 'stateless', of 'unknown nationality', or their nationality was recorded as 'Palestine'. Many more come from countries with problematic nationality laws, such as Syria, Iraq, Somalia, Iran, Eritrea or Sudan, where gender discrimination or state succession means they or their children are at risk of statelessness. People affected by statelessness face discrimination if reasonable accommodation is not made for their nationality problems in international protection procedures and the provision of essential services. Most countries in Europe are inadequately prepared to respond: only a handful have procedures in place to determine who is stateless on their territory and grant them the specific rights enshrined in international and regional law with respect to the protection of stateless people and the right to a nationality.

WHAT IS THE REFUGEE CONTEXT IN THE NETHERLANDS?

The Netherlands is usually considered a destination country by refugees in Europe. Data from the Dutch Government and Eurostat show a gradual decrease in the number of first-time asylum applications since 2015. In 2015, 43,093 applications were lodged compared to 14,716 in 2017. Of these, 120 were submitted by people recorded as 'stateless', 310 in 2016 and 2,399 in 2015. 12,869 stateless persons were registered on 1 January 2019 by the national statistics bureau (CBS) compared to 2,005 in 2012. The increase is mainly attributed to stateless refugees from Syria.

WHAT IS THE LEGAL SITUATION FOR STATELESS PEOPLE IN THE NETHERLANDS?

The Netherlands is state party to all the relevant UN and European statelessness conventions. Although it has reservations to the 1954 Convention on the Status of Stateless Persons (which defines and enshrines the rights to be granted to stateless people), it has committed to removing these. There is no dedicated statelessness determination procedure in the Netherlands, although the parliament is considering legislation in this area in 2019. Currently, there are two possible administrative procedures for a person to register as stateless depending on whether they are legally residing in the country. Identification as a stateless person does not lead to permission to stay, though a legally residing stateless person who registers may have access to a travel document and a facilitated route to naturalisation. The definition of a stateless person in Dutch law is narrower than the 1954 Convention. For more information on statelessness in the Netherlands, see the [Statelessness Index country page](#).

WHY IS STATELESSNESS RELEVANT TO THE REFUGEE RESPONSE IN THE NETHERLANDS?

There is no fully reliable data on statelessness among refugees in the Netherlands. This is due to the absence of a procedure to determine who is stateless and grant them a residence permit, and the inability of stateless people without a residence permit to register as a stateless person at their Municipality. In addition, there is no data on the number of children born to stateless refugees. Having said this, the number of total stateless persons born in the Netherlands, and registered in the Gemeente, is known. Namely, 1,440 stateless persons born in the Netherlands in the age category 10-14 years old were registered in the CBS on 1 January 2019. The largest population of



refugees affected by statelessness in the Netherlands are Palestinians, although there are also cases of Kuwaiti Bidoon, Rohingya, stateless Kurds, and people from the former USSR. Some of the key statelessness-related challenges emerging from our research in the Dutch context are highlighted below.

Arrival & Registration

- Nationality problems are not being accurately identified and recorded on arrival.
- The failure to identify or record statelessness, leads to registration with imputed nationality or 'unknown' nationality, which can later be difficult to correct as there is a high evidentiary standard to establish statelessness.
- A residence permit and documents to 'prove' statelessness are needed for individuals to be registered as stateless by Municipalities.
- There is a general lack of awareness of the implications of statelessness and the rights and protections afforded to stateless people under international law.

Determination of refugee status

- A lack of clarity about someone's nationality can impact on the assessment of credibility.
- There is a general lack of awareness of statelessness issues by authorities.
- Stateless people report their nationality problems not being adequately addressed in the procedure leading to a higher likelihood of protection being refused.
- There is no statelessness determination procedure in the Netherlands so it's not clear what the legal routes to protection are under the 1954 Convention if a stateless person is refused refugee protection under the 1951 Convention.

Immigration detention

- If statelessness is not adequately addressed in the procedure it can lead to prolonged - and risk of arbitrary or unlawful - detention.
- There appears to be a commonly held belief among officials that individuals can be subject to return procedures and removed even if they are stateless.

Child's right to a nationality

- The lack of awareness of the implications of statelessness and gender discrimination in nationality laws leads to inconsistent implementation of the safeguard to grant Dutch nationality to otherwise stateless children born in the country.

Naturalisation

- There is a limited facilitated naturalisation procedure for stateless people in the Netherlands (they can apply after three years as opposed to five and are exempt from the requirement to provide a passport) but a birth certificate is still necessary, which cannot be met by many stateless people.



- Stateless often people cannot meet the documentation requirements for naturalisation and if a person is registered as “unknown” nationality they cannot benefit from the exemptions permitted to those registered as stateless (i.e. they must present a passport).
- There is extra vulnerability for victims of human trafficking because of loss of documents to their trafficker and because of their inability to contact countries of origin for new documents.
- The lack of birth or marriage certificates among some stateless populations can be a barrier to naturalisation.

WHO ARE THE RELEVANT REFUGEE RESPONSE ACTORS IN THE DUTCH CONTEXT?

Stage	Key actors and roles
Arrival & registration	• Central Agency for the Reception of Asylum Seekers (Centraal Orgaan Asielzoekers (COA)) is responsible for the reception of asylum seekers coming to the Netherlands • The Dutch Council for Refugees, or Vluchtelingenwerk in Dutch, represents the interests of refugees and asylum seekers in the Netherlands, from the moment of entry to integration into Dutch society • The Immigration and Naturalisation Service (Immigratie- en Naturalisatiedienst (IND)) is responsible for assessing all applications from foreign nationals who want to live in the Netherlands or want to become Dutch citizens
Support during (repeated) asylum process	• COA • Vluchtelingenwerk/Dutch Council for Refugees • Lawyers • National NGOs (ASKV Refugee Support, INLIA, Vluchtelingen in de Knel, Stichting ROS, STIL Utrecht, Dutch Council for Refugees, etc.)
Determination of refugee status	• IND (see above)
Detention & returns	• The Repatriation and Departure Service (Dienst Terugkeer & Vertrek (DT&V)) is responsible for expediting the voluntary and forced departure of foreign nationals who are not allowed to stay in the Netherlands • Hulpofficier van Justitie (Assistant Public Prosecutor) is involved in the decision to detain • Stichting LOS (“Meldpunt Vreemdelingendetentie” project) supports people in detention - they can be called from inside detention on their free hotline • International Organisation for Migration provides assistance with voluntary return • Bridge to Better provides assistance with voluntary return • GoedWerk Foundation provides assistance with voluntary return • Lawyers assist in appealing the decision to detain as well as return decisions
Birth registration	• Municipalities (Gemeente) - A ‘Gemeente’ is the local municipality in which a person resides and whose office is subsequently responsible for all



	administrative procedures regarding someone's registration and marital status
Naturalisation	• Municipalities - The Gemeente is responsible for receiving a request for naturalization and then forwards this request to the IND • IND is responsible for the decision in the procedure

WHAT ARE THE PRIORITY AREAS FOR ACTION TO ADDRESS STATELESSNESS IN THE DUTCH CONTEXT?

- Procedural clarity and clear guidance is required to support the accurate identification, registration and recording of statelessness and nationality problems among refugee arrivals
- Guidance and capacity-building should be issued to asylum determining authorities to enable them to adequately address statelessness-related persecution in international protection procedures, and refer stateless refugees to a procedure to determine their statelessness
- A statelessness determination procedure and protection regime should be established in law to enable the Netherlands to meet its international obligations under the 1954 Convention and reduce the risk of arbitrary detention
- A facilitated route to naturalisation should be implemented and barriers to naturalisation removed for stateless persons in the Netherlands in line with the 1954 Convention

STATELESSNESS: THE BASICS

A stateless person is defined in the 1954 Convention on the Status of Stateless Persons and international customary law as "***a person who is not considered as a national by any State under the operation of its law***". It is someone who does not have a nationality of any country. Some people are born stateless, while others become stateless over the course of their lives. Although stateless people may sometimes also be refugees, the two categories are distinct in international law. Some of the **main causes of statelessness** are gaps in nationality laws, discrimination, forced displacement, state succession, restrictive administrative practices, and arbitrary deprivation of nationality. Statelessness is a hidden problem due to the lack of reliable data on stateless populations. UNHCR reports figures for only 3.9 million of the estimated 10 million stateless people around the world in its Global Trends Report 2017. Being affected by statelessness often means not having a birth certificate or any other legal documentation, not having or being able to pass on a nationality to your children, not being able to access formal education and other services, not being able to travel, and facing many more legal and administrative barriers. To be stateless is often to be 'legally invisible'.

ABOUT THIS BRIEFING

This briefing is published by the [European Network on Statelessness](https://statelessjourneys.org) and the [Institute on Statelessness and Inclusion](https://statelessjourneys.org) as part of the #StatelessJourneys project (<https://statelessjourneys.org>) examining the relationship between statelessness and forced migration in Europe. It is based on initial findings from research in Greece, Serbia and the Netherlands, and questionnaires completed by ENS members in other European countries. It is not intended to provide a comprehensive picture, but rather to draw attention to some of the main challenges relating to the intersection of



statelessness and forced migration, point to areas for further research, and make recommendations for action to address these challenges at national and regional levels.

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Statelessness is often overlooked in asylum and migration debates. It is a hidden but very real issue affecting many refugees and migrants in Europe.

#StatelessJourneys is a joint project between the European Network on Statelessness and the Institute on Statelessness and Inclusion. It was designed to expose gaps, identify solutions and deliver evidence-based advocacy to secure the protection of stateless refugees and migrants, and to prevent new cases of statelessness arising in Europe.

For more information about the issue and the project please visit <https://statelessjourneys.org>



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Cover photo: Netherlands. Syrian Kurdish refugees arrive in Holland; © UNHCR/Andrew McConnell

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