Please cite as: EUAA, '4.13.3. Changing legislation' in *Asylum Report 2023*, Mai 2023.

4.13.3. Changing legislation

4.13.3. Changing legislation

icon for changing legislation

With the number of applications for international protection significantly growing in 2022, it is probable that more stateless asylum seekers have arrived in the EU. Depending on national legislation, it can be challenging for asylum seekers and beneficiaries of international protection to be officially recognised as stateless. Indeed, results of an external evaluation carried out by UNHCR suggested that the targets established under the Global Action Plan to End Statelessness were unlikely to be met before the agreed target date of 2024.1034

Nonetheless, several positive changes occurred in 2022 which will help increase recognition and ensure that the rights of stateless persons are protected. These developments often have a direct impact on stateless persons who are or have been through the asylum process, as well as their children.

On 23 March 2022, Austria amended the Citizenship Act to allow children born in Austria to apply for nationality when they reach the age of majority within a period of 3 years under facilitated requirements if they would otherwise be stateless.1035 The previous legislation allowed them to apply within 2 years. This development is important for many groups of children, including those who were born to applicants or beneficiaries of international protection and were unable to inherit citizenship from their parents. UNHCR advocated that foreign children should be able to acquire citizenship earlier, without having to wait until after their 18th birthday.1036 The organisation also urged for the introduction of a specific statelessness determination procedure.1037

In March 2022, Belgium pledged to introduce a new legal status for stateless persons which would give them the right to legally reside in Belgium if they cannot return to their country of habitual residence.1038 In December 2022, amendments to the Belgian Nationality Code introduced important changes relating to stateless children (Article 10). It was legally established that no recognition as a stateless person would be henceforth required to grant Belgian nationality to a child born in Belgium without a nationality. This was always the intention of the legislator in the Belgian Nationality Code, but in practice the civil registrar would sometimes ask for official recognition of statelessness status. The amended Article 10 also introduced the possibility for the civil registrar to seek advice from the Public Prosecutor in the event of doubt about the lack of nationality of a child.

In Finland, the Ministry of the Interior proposed and submitted amendments to the Nationality Act to the parliament in April 2022. The parliament did not manage to consider the proposal by the end of the electoral term (29 March 2023) and it was allowed to lapse. The next government will decide if the changes will be proposed again. If approved, the definitions of a stateless person will be updated to be in line with international treaties. Precisely, stateless persons would no longer be divided into voluntarily stateless and involuntarily stateless.[1039] This will make it easier for stateless asylum seekers to be recognised and ensure that all stateless asylum seekers and beneficiaries of international protection are afforded the same rights, regardless of the reason for which they became stateless.

In Portugal, the revised Nationality Regulation came into force in April 2022 which made it easier for children born in Portugal to applicants or beneficiaries of international protection to acquire citizenship. Under the revised regulation, a child born on the territory can be granted nationality if one of the parents is a legal resident or one of the parents has been residing on the territory for more than 1 year (irrespective of their residency status).[lvii],[1040] The new amendments also make it easier for children who were born to foreign parents, prior to the bill coming into effect, to access naturalisation by removing the language and residency requirements in the following cases:

- At least one parent is a legal resident;
- At least one parent has lived in Portugal for 5 years or more prior to the submission of the naturalisation request (irrespective of the parent's residency status); or
- The child has completed at least 1 year of pre-school, primary or secondary education in Portugal.[1041]

On 29 March 2022, Spain adopted a Royal Decree which guarantees stateless persons access to the national reception system for the duration of the Stateless Determination Procedure. This will ensure that children in the Stateless Determination Procedure have access to education and other integration programmes.[1042]

In the Netherlands, where there are approximately 40,000 individuals registered as 'nationality unknown',[1043] two bills on statelessness were passed by the parliament on 31 May 2022. The first bill is a step towards introducing a new stateless determination procedure which will be judicial in nature. This will facilitate the recognition of stateless persons arriving in the Netherlands and reduce the number of applicants being registered as having 'nationality unknown'. The second bill amends the Dutch Nationality Act to allow stateless children to apply for naturalisation after 5 years of habitual residence. Both bills will need to be approved by the Senate in 2023.[1044]

While this is a positive change that will facilitate stateless children of asylum seekers and beneficiaries of international protection to access nationality, the bills fall short of the recommendations made by the UNCRC during the combined fifth and sixth periodic review of the Netherlands. The recommendations which were published in March 2022 called on the Netherlands to "[g]uarantee all stateless children born or present within the territory of the State party the right to acquire nationality irrespective of residency status" and "[i]mplement measures for ensuring that children with an unknown nationality, a status that leaves them unable to be registered as stateless and obtain international protection, do not remain with such

a status for a prolonged period of time”.1045

- 1034European Network on Statelessness. (2023, January 9). ENS Newsletter - March 2021. https://mailchi.mp/statelessness/ens-newsletter-sep-1090736
- 1035Bundesgesetz, mit dem das Staatsbürgerschaftsgesetz 1985 geändert wird, BGBl. I Nr. 49/2022 [Federal law amending the Citizenship Act 1985, BGBl. I Nr. 49/2022], April 13, 2022. https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=BgblAuth&Dokumentnummer=BGBLA_2022_I_ European Network on Statelessness. (2023, January 9). ENS Newsletter - March 2021. https://mailchi.mp/statelessness/ens-newsletter-sep-1090736
- 1036United Nations High Commissioner for Refugees. (2022, November 4). UNHCR drängt auf Maßnahmen zur Lösung der Notlage von Staatenlosen [UNHCR urges action to resolve plight of stateless persons]. https://www.unhcr.org/dach/at/83459-unhcr-drangt-auf-massnahmen-zur-losung-der-notlage-von-staatenlosen.html
- 1037United Nations High Commissioner for Refugees. (2022, November 4). UNHCR drängt auf Maßnahmen zur Lösung der Notlage von Staatenlosen [UNHCR urges action to resolve plight of stateless persons]. https://www.unhcr.org/dach/at/83459-unhcr-drangt-auf-massnahmen-zur-losung-der-notlage-von-staatenlosen.html
- 1038European Network on Statelessness. (2023, January 9). ENS Newsletter - March 2021. https://mailchi.mp/statelessness/ens-newsletter-sep-1090736
- 1039Ministry of the Interior | Sisäministeriö. (2022, April 28). Kansalaisuuslakiin ehdotetaan selkeyttäviä muutoksia [Clarifying changes are proposed to the Citizenship Act]. https://intermin.fi/-/kansalaisuuslakiin-ehdotetaan-selkeyttavia-muutoksia?languageId=en_US
- iviiChildren of diplomats are excluded.
- 1040Statelessness Index. (2022). Changes to the Portuguese Nationality Act come into force. https://index.statelessness.eu/news/changes-portuguese-nationality-act-come-force
- 1041Statelessness Index. (2022). Portugal. https://index.statelessness.eu/country/portugal
- 1042Statelessness Index. (2022). Spain; Real Decreto 220/2022, de 29 de marzo, por el que se aprueba el Reglamento por el que se regula el sistema de acogida en materia de protección internacional [Royal Decree 220/ 2022, of 29 March, adopting the Regulation governing the reception system for applicants for and beneficiaries of international protection, March 29, 2022. https://www.boe.es/buscar/act.php?id=BOE-A-2022-4978
- 1043Government | Rijksoverheid. Statelessness. https://www.government.nl/topics/dutch-citizenship/statelessness
- 1044European Network on Statelessness. (2022). Netherlands adopts new bills on statelessness. https://www.statelessness.eu/updates/news/netherlands-adopts-new-bills-statelessness
- 1045United Nations Committee on the Rights of the Child. (2022, March 9). Concluding observations on the combined fifth and sixth periodic reports of the Kingdom of the Netherlands. CRC/C/NLD/CO/5-6. https://www.ohchr.org/en/documents/concluding-observations/crccnldco5-6-concluding-observations-combined-fifth-and-sixth

© European Union Agency for Asylum 2026 | Email: info@euaa.europa.eu