Please cite as: EUAA, '4.13.1.2. Stateless children of asylum seekers and refugee parents' in *Asylum Report 2023*, Maggio 2023.

4.13.1.2. Stateless children of asylum seekers and refugee parents

4.13.1.2. Stateless children of asylum seekers and refugee parents

icon for unification of stateless persons and families

According to the ENS, only one-half of EU+ countries have sufficient legal safeguards to prevent children from growing up without a nationality.1024 In some countries, children born to stateless refugees inherit their parents' stateless status. At times, parents cannot approach the embassy of their country of origin to confirm their child's nationality out of fear of persecution.1025 In 2022, there were some positive advancements made by national courts.

In Spain, the Provincial Court of Guipúzcoa granted citizenship to a child, who was born to a Cameroonian woman during her journey from Cameroon to Spain to seek international protection. The court requested the Central Civil Registry to register the birth, after both the Cameroonian and Moroccan embassies failed to register the child's birth or grant her nationality. The judge presiding over the case noted that "if I had taken the decision based solely on the law and standard procedures, the result would have been unjust towards the girl, because we would have failed to recognise one of her fundamental rights".[ivi],1026 In an interview with Radio Cordoba, the judge hoped the case would set a new precedent for other stateless children arriving in Spain.1027

In Ireland, the Supreme Court confirmed that a child who was granted Irish nationality on the basis that his father was a recognised refugee at the time of his birth could not have his Irish nationality revoked because his father's status had been subsequently withdrawn.1028

While jurisprudence seems to have taken a protection-oriented approach for the right of stateless persons, including in the context of asylum, additional safeguards are still needed in many EU+ countries. The ENS has issued a number of recommendations to EU+ countries to ensure that effective procedures are in place for statelessness determination and that the best interests of children of refugees born in exile are taken into consideration.1029

The UNCRC made recommendations to Cyprus and the Netherlands in 2022. In June 2022, the Committee recommended that Cyprus implements new safeguards to reduce statelessness by "[e]stablish[ing] legal safeguards, including legislation and procedures, including removal of fees for birth registration[…]".1030 The Committee also urged Cyprus to "[f]acilitate the acquisition of nationality for children who would otherwise be stateless, regardless of their

parents' citizenship, residence, legal or marital status, with particular attention given to children born to refugee, asylum-seeking, migrant or stateless parents, and regardless of the existence of the family link before the departure from the country of origin".1031

In March 2022, the Committee stated their concern about the Dutch Nationality Act, which requires stateless children applying for nationality to have 3 years of legal residency.1032 While the Dutch parliament has since passed two new bills which still need to be adopted by the senate in 2023, the ENS is concerned that the changes do not go far enough to guarantee that stateless children born in the Netherlands will have access to the rights afforded by international law.1033

- 1024European Network on Statelessness. (2022, October 6). Addressing the Risks of Statelessness Among Children in Migration In Europe. https://www.statelessness.eu/updates/publications/addressing-risks-statelessness-among-children-migration-europe
- 1025European Network on Statelessness. (2022, October 6). Addressing the Risks of Statelessness Among Children in Migration In Europe. https://www.statelessness.eu/updates/publications/addressing-risks-statelessness-among-children-migration-europe
- iviUnofficial translation.
- 1026Power Justice Spain | Poder Justicia Espana. (2022, June 8). La Audiencia Provincial de Guipúzcoa reconoce por primera vez la nacionalidad española a una niña nacida en patera cuando se dirigía a la costa gaditana [The Provincial Court of Guipúzcoa grants Spanish nationality to a girl born on the journey towards the coast of Cadiz]. https://www.poderjudicial.es/cgpj/es/Poder-Judicial/Tribunales-Superiores-de-Justicia/TSJ-Pais-Vasco/Noticias-Judiciales-TSJ-Pais-Vasco/La-Audiencia-Provincial-de-Guipuzcoa-reconoce-por-primera-vez-la-nacionalidad-espanola-a-una-nina-nacida-en-patera-cuando-se-dirigia-a-la-costa-gaditana
- 1027Ser. (2021, October 27). Francisco Ortega: "Un niño nacido 'en tránsito' tiene derecho a ser inscrito y el Estado está obligado a ello" [Francisco Ortega: A child born in transit has the right to be recognised and the State is obliged to do so]. https://cadenaser.com/emisora/2021/10/27/radio_cordoba/1635321065_088537.html
- 1028Irish Times (2022, June 2). Supreme Court overturns ruling revoking citizenship of child born in Ireland to refugee father. The Irish Times. https://www.irishtimes.com/crime-law/courts/2022/06/02/supreme-court-overturns-ruling-revoking-citizenship-of-child-born-in-ireland-to-refugee-father/
- 1029European Network on Statelessness. (2022, October 6). Addressing the Risks of Statelessness Among Children in Migration in Europe. https://www.statelessness.eu/updates/publications/addressing-risks-statelessness-among-children-migration-europe
- 1030United Nations Committee on the Rights of the Child. (2022, June 24). Concluding observations on the combined fifth and sixth periodic reports of Cyprus. https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhst6tBM
- 1031United Nations Committee on the Rights of the Child. (2022, June 24). Concluding observations on the combined fifth and sixth periodic reports of Cyprus. https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhst6tBM

- 1032United 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
- 1033European Network on Statelessness. (2022). Netherlands adopts new bills on statelessness. https://www.statelessness.eu/updates/news/netherlands-adopts-new-bills-statelessness

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