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International and Regional Instruments

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
IOB	1	a	1954 Convention	Is your country party to the 1954 Statelessness Convention?	<ul style="list-style-type: none"> • UN Convention Relating to the Status of Stateless Persons, 1954 	Yes	Treaty Database: https://verdragenbank.overheid.nl/en/Treaty/Details/008230
IOB	1	b		If yes, when was ratification/accession ?		12 April 1962	Treaty Database: https://verdragenbank.overheid.nl/en/Treaty/Details/008230
IOB	1	c		Are there reservations in place? Please list them.	Best practice is no reservations. If there are, they should have little or no effect on the rights of stateless persons.	<p>Yes:</p> <ul style="list-style-type: none"> • Article 8: The Government of the Kingdom reserves the right not to apply the provisions of Article 8 of the Convention to stateless persons who previously possessed enemy nationality or the equivalent thereof with respect to the Kingdom of the Netherlands; • Article 26: The Government of the Kingdom reserves the right to designate a place of principal residence for stateless persons or groups of stateless persons in the public interest. <p>The Government committed to withdrawing these reservations in response to the ACVZ (Advisory Committee on Migration Affairs) report on statelessness. This is part of the current legislative proposal for a statelessness determination procedure.</p>	<p>Treaty Database: https://verdragenbank.overheid.nl/nl/Treaty/Details/008230_b#Nederlanden</p> <p>Dutch House of Representatives, Nr. 1889, Letter from the State Secretary for Safety & Justice, pp. 4-5: https://acvz.org/wp-content/uploads/2015/05/04-12-2013_KabinetsreactieGeenLandTeBekennen.pdf (Dutch (D))</p> <p>Legislative proposal for an SDP, Arts.8 & 9: https://www.internetconsultatie.nl/staatloosheid/details (D)</p>
IOB	1	d		Does Convention have direct effect?	Best practice is that the Convention has direct effect, though this may depend on legal regime.	Yes	Constitution of the Kingdom of the Netherlands, Art. 94: https://www.government.nl/documents/regulations/2012/10/18/the-constitution-of-the-kingdom-of-the-netherlands-2008

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IOB	2	a	1961 Convention	Is your country party to the 1961 Statelessness Convention?	<ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961 	Yes	Treaty Database https://verdragenbank.overheid.nl/en/Treaty/Details/009039.html
IOB	2	b		If yes, when was ratification/accession ?		13 May 1985	Treaty Database: https://verdragenbank.overheid.nl/en/Treaty/Details/009039.html
IOB	2	c		Are there reservations in place? Please list them.	As above	No	Treaty Database: https://verdragenbank.overheid.nl/en/Treaty/Details/009039_b.html
IOB	2	d		Does Convention have direct effect?	As above	Yes	Constitution of the Kingdom of the Netherlands, Art. 94: https://www.government.nl/documents/regulations/2012/10/18/the-constitution-of-the-kingdom-of-the-netherlands-2008
IOB	3	a	Other conventions	State party to European Convention on Nationality 1997? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> • European Convention on Nationality, 1997 	Yes, with reservations: <ul style="list-style-type: none"> • Article 7(2): The Kingdom of the Netherlands declares this provision to include the loss of Dutch nationality by a child whose parents renounce Dutch nationality as referred to in Article 8 of the Convention. 	Treaty Database: https://verdragenbank.overheid.nl/en/Treaty/Details/008154_b
IOB	3	b		State Party to European Convention on Human Rights 1950? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> • European Convention on Human Rights, 1950 	Yes. No reservations.	Treaty Database: https://verdragenbank.overheid.nl/en/Treaty/Details/005132_b.html
IOB	3	c		State Party to Council of Europe Convention on the avoidance of statelessness in relation to State succession 2006? Are there reservations in	<ul style="list-style-type: none"> • Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession, 2006 	Yes. No reservations.	Treaty Database: https://verdragenbank.overheid.nl/en/Treaty/Details/011382

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				place? Please list them.			
IOB	3	d		Bound by Directive 2008/115/EC of the European Parliament and of the Council (EU Returns Directive). Are there reservations in place? Please list them.	<ul style="list-style-type: none"> • Directive 2008/115/EC of the European Parliament and of the Council (EU Returns Directive) 	Yes. No reservations.	Legal and regulatory framework: http://wetten.overheid.nl/EUR20080115
IOB	3	e		State Party to Convention on the Rights of the Child 1989? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> • Convention on the Rights of the Child 1989 	Yes, with reservations: <ul style="list-style-type: none"> • Article 26: The Kingdom of the Netherlands accepts the provisions of Article 26 of the Convention with the reservation that these provisions shall not imply an independent entitlement of children to social security, including social insurance; • Article 37: The Kingdom of the Netherlands accepts the provisions of Article 37(c) of the Convention with the reservation that these provisions shall not prevent the application of adult penal law to children of sixteen years and older, provided that certain criteria by law have been met; • Article 40: The Kingdom of the Netherlands accepts the provisions of Article 40 of the Convention with the reservation that cases involving minor offences may be tried without the presence of legal assistance and that with respect to such offences the position remains that no provision is made in all cases for a review of the facts or of any measures imposed as a consequence. 	Treaty Database: https://verdragenbank.overheid.nl/en/Treaty/Details/003908_b

IOB	3	f		<p>State Party to International Covenant on Civil and Political Rights 1966? Are there reservations in place? Please list them.</p>	<ul style="list-style-type: none"> • International Covenant on Civil and Political Rights 1966 	<p>Yes, with reservations:</p> <ul style="list-style-type: none"> • Article 10: The Kingdom of the Netherlands subscribes to the principle set out in paragraph 1 of this article, but it takes the view that ideas about the treatment of prisoners are so liable to change that it does not wish to be bound by the obligations set out in paragraph 2 and paragraph 3 (second sentence) of this article. • Article 12(1): The Kingdom of the Netherlands regards the Netherlands and the Netherlands Antilles as separate territories of a State for the purpose of this provision; • Article 12(2) & (4): The Kingdom of the Netherlands regards the Netherlands and the Netherlands Antilles as separate countries for the purpose of these provisions; • Article 14(3)(d): The Kingdom of the Netherlands reserves the statutory option of removing a person charged with a criminal offence from the court room in the interests of the proper conduct of the proceedings; • Article 14(5): The kingdom of the Netherlands reserves the statutory power of the Supreme Court of the Netherlands to have sole jurisdiction to try certain categories of persons charged with serious offences committed in the discharge of a public office; • Article 14(7): The Kingdom of the Netherlands accepts this provision only insofar as no obligations arise from it further to those set out in Article 68 of the Criminal Code of the Netherlands and Article 70 of the Criminal Code of the Netherlands Antilles as they now apply; • Article 19(2): The Kingdom of the Netherlands accepts the provision with the proviso that it shall not prevent the Kingdom from requiring the licensing or broadcasting, television or cinema enterprises; • Article 20(1): The Kingdom of the Netherlands does not accept the obligation set out in this provision in the case of the Netherlands. [The Kingdom of the Netherlands] clarify that although the reservations [...] are partly of an interpretational nature, [it] has 	<p>Treaty Database: https://verdragenbank.overheid.nl/en/Treaty/Details/003721_b</p>
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						<p>preferred reservations to interpretational declarations in all cases, since if the latter form were used doubt might arise concerning whether the text of the Covenant allows for the interpretation put upon it. By using the reservation form the Kingdom of the Netherlands wishes to ensure in all cases that the relevant obligations arising out of the Covenant will not apply to the Kingdom, or will apply only in the way indicated.</p> <ul style="list-style-type: none"> • The Kingdom of the Netherlands declares under Article 41 of the International Covenant on Civil and Political Rights that it recognises the competence of the Human Rights Committee referred to in Article 28 of the Covenant to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the Covenant. 	
IOB	3	g		<p>State Party to International Covenant on Economic, Social and Cultural Rights 1966? Are there reservations in place? Please list them.</p>	<ul style="list-style-type: none"> • International Covenant on Economic, Social and Cultural Rights 1966 	<p>Yes, with reservations:</p> <ul style="list-style-type: none"> • Article 8(1)(d): The Kingdom of the Netherlands does not accept this provision in the case of the Netherlands Antilles with regard to the latter’s central and local government bodies. [The Kingdom of the Netherlands] clarify that although it is not certain whether the reservations [...] is necessary, [it] has preferred the form of a reservation to that of a declaration. In this way the Kingdom of the Netherlands wishes to ensure that the relevant obligation under the Covenant does not apply to the Kingdom as far as the Netherlands Antilles is concerned. 	<p>Treaty Database: https://verdragenbank.overheid.nl/en/Treaty/Details/003723_b</p>

IOB	3	h		<p>State Party to Convention on the Elimination of all Forms of Discrimination Against Women 1979? Are there reservations in place? Please list them.</p>	<ul style="list-style-type: none"> • Convention on the Elimination of all Forms of Discrimination Against Women 1979 • Gen. Rec. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness. 	<p>Yes, with reservations:</p> <ul style="list-style-type: none"> • During the preparatory stages of the present Convention and in the course of debates on it in the General Assembly the position of the Government of the Kingdom of the Netherlands was that it was not desirable to introduce political considerations such as those contained in paragraphs 10 and 11 of the preamble in a legal instrument of this nature. Moreover; the considerations are not directly related to the achievement of total equality between men and women. The Government of the Kingdom of the Netherlands considers that it must recall its objections to the said paragraphs in the preamble at this occasion. 	<p>Treaty Database: https://verdragenbank.overheid.nl/en/Treaty/Details/000837_b</p>
IOB	3	i		<p>State Party to Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984? Are there reservations in place? Please list them.</p>	<ul style="list-style-type: none"> • Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984 	<p>Yes, with reservations:</p> <ul style="list-style-type: none"> • Article 1(1): It is the understanding of the Government of the Kingdom of the Netherlands that the term “lawful sanctions” in Article 1(1), must be understood as referring to those sanctions which are lawful not only under national law but also under international law; • Article 21: The Government of the Kingdom of the Netherlands hereby declares that it recognises the competence of the Committee against Torture under the conditions laid down in Article 21, to receive and consider communications to the effect that another State Party claims that the Kingdom is not fulfilling its obligations under this Convention; • Article 22: The Government of the Kingdom of the Netherlands hereby declares that it recognises the competence of the Committee against Torture, under the conditions laid down in Article 22, to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by the Kingdom of the provisions of the Convention. 	<p>Treaty Database: https://verdragenbank.overheid.nl/en/Treaty/Details/000176_b</p>

IOB	3	j		<p>State Party to International Convention on the Elimination of All Forms of Racial Discrimination 1965? Are there reservations in place? Please list them.</p>	<ul style="list-style-type: none"> • International Convention on the Elimination of All Forms of Racial Discrimination 1965 	<p>Yes, with reservations:</p> <ul style="list-style-type: none"> • Article 14(1): In accordance with Article 14(1), of the Convention on the Elimination of All Forms of Racial Discrimination concluded at New York on 7 March 1966, the Kingdom of the Netherlands recognises, for the European part of the Netherlands, Aruba, Curaçao, Sint Maarten and the Caribbean part of the Netherlands (the islands of Bonaire, Sint Eustatius and Saba), the competence of the Committee for the Elimination of Racial Discrimination to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation, by the Kingdom of the Netherlands, of any of the rights set forth in the above-mentioned Convention. 	<p>Treaty Database: https://verdragenbank.overheid.nl/en/Treaty/Details/003657_b</p>
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Stateless Population Data

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
POP	1	a	Availability and sources	Does the Govt have a discrete category for statelessness in its data collection system (e.g. in the census)? If so, what are the Govt figures for the total stateless population on the territory? Is the data disaggregated? If so, how?	<ul style="list-style-type: none"> • Gen. Rec. 32 of CEDAW (para. 39): States parties should... gather, analyse and make available sex-disaggregated statistical data and trends... • European Council, Conclusions of the Council and the Representatives of the Governments of the Member States on Statelessness: Recognise the importance of exchanging good practices...concerning the collection of reliable data on stateless persons... • UNHCR Global Action Plan to End Statelessness 2014-2024 (Action 10): Improve quantitative and qualitative data on stateless populations... • Institute on Statelessness and Inclusion (The World's Stateless) pg.11: States should adopt and/or strengthen measures to count stateless persons on their territory... 	<p>Official data on statelessness is not reported on consistently and inclusively. In the national data collection system (StatLine), a division is made between the category 'stateless' and 'nationality unknown'. However, not all the data is updated every year. In some data tables 'stateless' and 'unknown nationality' form one category, and in some data tables (up to 2014) 'stateless' is included as a separate category. The table on the number of nationalities people possess on the territory, shows 1,978 stateless people in 2014. A change in law means that data on non-Dutch nationalities is no longer recorded.</p> <p>The Dutch Government website states that there are 4000 stateless persons registered in the <i>Basisregistratie Personen</i> (BRP) – Dutch Population Register.</p> <p>An increase in the number of registered stateless persons in the Netherlands, was recently reported by the Dutch media, based on unpublished data provided to them by the Central Office for Statistics (<i>Centraal Bureau voor de Statistiek</i>): on 1 January 2012 there were 2,005 persons factually stateless. On 1 January 2017 there were 12,477. The increase is almost entirely made up of people born in Syria.</p>	<p>StatLine data by sex, age and nationality: http://statline.cbs.nl/Statweb/publication/?DM=SLNL&PA=03743&D1=0&D2=0&D3=I&D4=a&HDR=T,G1,G3&STB=G2&VW=T StatLine data on number of nationalities people possess on the territory (stateless), 1995-2014: http://statline.cbs.nl/Statweb/publication/?DM=SLNL&PA=70999NE&D1=8&D2=a&HDR=T&STB=G1&CHARTTYPE=0&VW=T</p> <p>Dutch Government Website, Statelessness: https://www.government.nl/topics/dutch-nationality/statelessness (in English (E)) and https://www.rijksoverheid.nl/onderwerpen/nederlandse-nationaliteit/staatloosheid (D)</p> <p>EenVandaag article (D): https://eenvandaag.avrotros.nl/item/aantal-staatlozen-in-nederland-neemt-toe/.</p>

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POP	1	b	Do Govt authorities define categories of persons who may overlap with stateless (e.g. unknown nationality, unspecified nationality, other)? Are statistics on these available? If, yes, please indicate categories and statistics.	As above	The most recent data that can be found on StatLine on nationality is from August 2016. In this table 'stateless' and 'unknown nationality' are combined. The number of people 'stateless' or with 'unknown nationality' in 2016 was 74,055.	StatLine data by sex, age and nationality: http://statline.cbs.nl/Statweb/publication/?DM=SLNL&PA=03743&D1=0&D2=0&D3=I&D4=a&HDR=T,G1,G3&STB=G2&VW=T
POP	1	c	What is the UNHCR estimate for the population of stateless persons and/or those at risk of statelessness on the territory? What is UNHCR's source for this information?	As above	In its mapping study of statelessness in the Netherlands, UNHCR notes the lack of available quantitative data. Recent estimates reported by UNHCR are that there are some 10,000 stateless persons in the Netherlands.	UNCHR, 2011, Mapping statelessness in the Netherlands, p.34: http://www.refworld.org/docid/4eef65da2.html (E) and http://www.aoo.nl/downloads/2014-09-12-UN.pdf (D) Trouw, Stateless population grows in Netherlands, 14 September 2016: https://www.trouw.nl/home/aantal-staatlozen-in-nederland-groeit~aca55b20/ UNHCR, Exhibition on statelessness in Rijksmuseum, 28 September 2017: http://www.unhcr.org/nl/2017/09/tentoonstelling-staatloosheid-rijksmuseum/

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POP	1	d	Are there indirect (proxy) sources of statistics on stateless persons? E.g. categories of persons for which statistics are available where stateless persons may be more highly represented (e.g. relevant country of origin or profiles (e.g. Palestinians or Syrian Kurds)? Please provide explanation and figures.	As above	<p>Centraal Bureau voor de Statistiek data shows that 11.6% of the total asylum requests in 2014 were made by stateless asylum seekers, mainly Palestinians from Syria.</p> <p>More recent data shows that 5% of total asylum requests in 2016 were made by stateless persons.</p>	<p>CBS Data Asylum Requests: https://www.cbs.nl/nl-nl/nieuws/2015/05/aantal-asielzoekers-fors-toegenomen</p> <p>Dutch Refugee Council, Refugees in numbers, July 2017, p.7: https://www.vluchtelingenwerk.nl/sites/public/u152/Vluchtelingengetallen2017compleet-1.pdf (D)</p>
POP	1	e	Have there been surveys or mapping studies done to estimate the population of stateless persons in the country?	<ul style="list-style-type: none"> • UNHCR Global Action Plan to End Statelessness 2014-2024: Action 10 	Yes.	<p>UNCHR, 2011, Mapping statelessness in the Netherlands: http://www.refworld.org/docid/4eef65da2.html (E) and http://www.aoo.nl/downloads/2014-09-12-UN.pdf (D)</p> <p>Advisory Committee on Migration Affairs (ACVZ), 2013, <i>Geen land te bekennen een advies over de verdragsrechtelijke bescherming van staatlozen in nederland</i>, https://acvz.org/wp-content/uploads/2015/05/04-12-2013_GeenLandTeBekennen.pdf</p>

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							(D) - summary in English pp.108-111) Immigration and Naturalisation Service (IND) <i>Asieltrends</i> (asylum trends – latest from 2016): https://ind.nl/over-ind/Cijfers-publicaties/Paginas/Asieltrends.aspx (D) Vluchtelingenwerk (Dutch Refugee Council) report, 2016: https://www.vluchtelingenwerk.nl/sites/public/u895/Vluchtelingengetallen2016.pdf
POP	1	f		Are there other sources of estimates for the population of stateless persons (not covered by the above)? If so, list sources and figures.	As above	The ACVZ refers in their report to the number of stateless people registered in the Dutch Population Register (BRP). In 2012 this number was 2,005, and 88,313 people had ‘unknown nationality’. The 2016 explanatory memorandum for the draft legislation for a statelessness determination procedure refers to 2,000 stateless people noted in the ACVZ report. On top of that it states that the number of registered stateless people has increased due to the arrival of around 3,000 stateless Syrian Palestinians.	Advisory Committee on Migration Affairs (ACVZ), 2013, <i>Geen land te bekennen een advies over de verdragsrechtelijke bescherming van staatlozen in nederland</i> , p.31: https://acvz.org/wp-content/uploads/2015/05/04-12-2013_GeenLandTeBekennen.pdf (D) Overheid.nl (Dutch Government web portal), Draft Explanatory: Explanatory Memorandum statelessness determination procedure, p. 3 https://www.internetconsultatie.nl/staatloosheid

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POP	1	g		Are there issues with reliability of stateless data? If yes, please describe why.	As above	Yes, because there is no statelessness determination procedure yet, so it is not known how many unregistered stateless people are residing in the Netherlands and it is unclear how many stateless people are registered with 'nationality unknown'. UNHCR estimated that about 97,000 people were living irregularly in the Netherlands in 2011. Among them there are possibly many stateless. People who are assigned a nationality erroneously are also not recorded. The absence of clear guidelines on registration also contributes to difficulties to determine the total stateless population.	Overheid.nl (Dutch Government web portal), Draft Explanatory: Explanatory Memorandum statelessness determination procedure, p. 3 https://www.internetconsultatie.nl/staatloosheid
POP	1	h		Are there indications that the stateless population is either over or under reported? Please describe.	As above	Based on the above, it is likely that the stateless population is underreported in the Netherlands. However, there is no conclusive proof that this is the case. The current BRP (Population Register) system also allows for over-reporting (i.e. nationals may be registered as stateless). What we know is that the current procedure for registering stateless persons does not reflect the international definition of a stateless person and does not include undocumented (illegally residing) stateless persons and can therefore not be relied on for statistical information on the number of stateless persons in the country.	
POP	1	i		Please provide any available figures on stateless refugees or asylum seekers (if there is data, please clarify whether Govt also counts stateless refugees	As above	The total number of asylum applications (first applications, repeated applications, family reunification) in 2016 was 31,642, of which 1,471 were stateless. The Government only counts registered stateless persons – some of these people could be registered, but not necessarily all, so there is likely to be some overlap.	Immigration and Naturalisation Service (IND), Asylum Trends: Monthly Report on Asylum Applications in The Netherlands, Dec. 2016: https://ind.nl/en/Documents/AT_December_2016.pdf

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				and asylum seekers in the stateless population to avoid under/over reporting).			
POP	2	a	Stateless in Detention data	Number of stateless persons in immigration detention	As above and see also norms in Detention section.	The presence of stateless persons in administrative detention must be inferred from general statistics because there is no determination procedure. The overall use of detention has decreased considerably in recent years. In 2015 the number of individuals that entered a detention facility was 2,176 - a decrease of 65% since 2011. The number slightly increased again in 2016 to 2,570 (Source B). In 2010, 27% of detainees had been detained at least once before (61% once before, 29% two or three times, and 9% four or more) (Source A). In 2015, 6.2% of the people who entered a detention facility had 'unknown nationality'. In 2016, this decreased to 2.8% (Source B). There is no specific data available on stateless persons in detention in the Netherlands.	(A) ENS, 2015, Protecting Stateless Persons from Arbitrary Detention in the Netherlands, p. 14: http://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_Netherlands.pdf (B) The Custodial Institutions Agency, July 2017, <i>In numbers: 2012-2016</i> , pp. 47-48 https://www.dji.nl/binaries/DJI%20in%20getal%202012-2016_tcm41-271319.pdf (D)
POP	2	b		Are there statistics on individuals released from immigration detention who were un-removable, their country of origin and length of detention? If yes, please provide.	As above	There is no data available on individuals released from immigration detention who were un-removable. In terms of more general data, in 2015 the number of people released from detention was 2,236 and the average length of detention was 55 days. In 2011 it was 76 days. In 2013 people with 'unknown nationality' were detained for 92 days (average). In 2014 this decreased to 77 days (average).	The Custodial Institutions Agency report p. 53 https://www.dji.nl/binaries/dji-in-getal-2011-2015-definitief_tcm41-121762.pdf ENS, 2015, Protecting Stateless Persons from Arbitrary Detention in the Netherlands, p. 20: http://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_Netherlands.pdf

Statelessness Determination and Status

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
IDP	1	a	Existing SDP procedure	<p>Which of the following best describes the situation in your country (choose only one and then proceed to question indicated)?</p> <p>1. There is a dedicated Statelessness determination procedure (SDP) established in law, administrative guidance, or judicial procedure (proceed to Question 2a).</p> <p>2. There is no dedicated SDP procedure but there are other administrative procedures by which statelessness can be identified (e.g. through citizenship, residence permit and international protection procedures or ex-officio) (proceed to Question 10a).</p> <p>3. There is a dedicated</p>	<ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: ... it is implicit in the 1954 Convention that States must identify stateless persons within their jurisdictions so as to provide them appropriate treatment in order to comply with their Convention commitments. • UNHCR (Good Practices Paper 6): Establishing a statelessness determination procedure is the most efficient means for States Parties to the 1954 Convention to identify the beneficiaries of that Convention. • European Council, Conclusions of the Council and the Representatives of the Governments of the Member States on Statelessness: Recognise the importance of exchanging good practices among Member States concerning... procedures for determining statelessness. 	Group 2	<p>Statelessness page on website of the Government of the Netherlands: https://www.rijksoverheid.nl/onderwerpen/nederlandse-nationaliteit/inhoud/staatloosheid (D)</p>

			<p>statelessness status even if no formal procedure exists for determining this (proceed to Question 16a).</p> <p>4. If none of the above describe the situation in your country, are there other possibilities by which stateless persons can regularize their stay without their statelessness being determined (proceed to Question 17a)?</p>			
IDP	10	a	<p>Alternative administrative procedures for identification (AAP)</p> <p>If there is no dedicated SDP in your country, are there other administrative procedures by which statelessness can be identified (e.g. through citizenship, residence, and international protection procedures or ex-officio)?</p> <p>If yes, provide details and then proceed to question 11a.</p> <p>If no, proceed to question 16a.</p>	<ul style="list-style-type: none"> • ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices: For SDPs to be effective, the determination must be a specific objective of the mechanism in question, though not necessarily the only one. 	<p>Persons residing legally in the Netherlands can be formally registered as stateless in the <i>Basisregistratie Personen</i> (BRP) (Population Register) of the relevant municipality. In addition to BRP registration, the IND also has a procedure to identify statelessness after which registration can take place in the <i>Basisvoorziening Vreemdelingen</i> (BVV) (Database on Foreigners), which, unlike the BRP, allows for identification of a stateless person who is not legally residing in the Netherlands. There is no independent assessment of statelessness within the asylum procedure. BRP registration is the only administrative procedure with significant legal implications for a stateless person.</p>	<p>Statelessness page on website of the Government of the Netherlands: https://www.rijksoverheid.nl/onderwerpen/nederlandse-nationaliteit/inhoud/staatloosheid (D)</p> <p>Advisory Committee on Migration Affairs (ACVZ), 2013, <i>Geen land te beknennen advies over de verdragsrechtelijke bescherming van staatlozen in nederland</i>, p.50: https://acvz.org/wp-content/uploads/2015/05/04-12-2013_GeenLandTeBekennen.pdf (D)</p> <p>Dutch Association for Civil Affairs, 2016: https://nvvb.nl/nl/vereniging/organisatie/adviesbureau/veelgestelde-vragen/#vraag24 (D)</p> <p>Katja Swider, 2014, <i>Statelessness Determination in the Netherlands</i>, Amsterdam Centre for European Law and Governance, Working Paper Series 2014 - 04, pp. 21-23:</p>

							https://www.statelessness.eu/sites/www.statelessness.eu/files/attachments/resources/Statelessness%20Determination%20in%20the%20Netherlands%20Katja%20Swider.pdf
IDP	11	a	Access to procedures (AAP)	How is statelessness identified in the course of other procedures?	<ul style="list-style-type: none"> • UNHCR (Good Practices Paper 6): Efficient referral mechanisms should be established, while officials who may be in contact with stateless persons need to be trained to identify potential applicants for statelessness status and refer them to appropriate channels. 	<p>BRP registration is based on identity documents evidencing statelessness issued by a competent authority (Article 2.15 Law BRP); or a statement from the Minister of Security and Justice at the Dutch Immigration office (IND) (Article 2.17 Law BRP). The municipality may only <i>change</i> a BRP registration from ‘nationality unknown’ to ‘stateless’ based on original identity documents, so a statement from the IND can only be relied on when the person is registering in the BRP for the first time.</p> <p>The rules for the registration of nationality in the BVV are not regulated by law, but there is an internal administrative protocol (<i>Protocol Identificatie en Labeling</i> (PIL)) outlining how personal information should be registered. The PIL allows for a wide range of evidence to be admitted, including statements by individuals who are being registered, statements by third persons, results of linguistic tests and various official and non-official documents. This is also why the IND database is considered less reliable and subordinate to the BRP. A BRP official may formally request findings on someone’s nationality from the IND.</p>	<p>https://www.statelessness.eu/sites/www.statelessness.eu/files/attachments/resources/Statelessness%20Determination%20in%20the%20Netherlands%20Katja%20Swider.pdf</p> <p>Wet Basisregistratie personen (BRP) (Law on the Population Register) of 2013: http://wetten.overheid.nl/BWBR0033715/2015-09-01 (D)</p> <p>Protocol Identificatie en Labeling, Government of The Netherlands website: https://www.rijksoverheid.nl/documenten/richtlijnen/2017/07/04/protocol-identificatie-en-labeling-pil (D)</p> <p>Dutch Association for Civil Affairs, 2016: https://nvvb.nl/nl/vereniging/organisatie/adviesbureau/veelgestelde-vragen/#vraag24 (D)</p> <p>Katja Swider, 2014, Statelessness Determination in the Netherlands, Amsterdam Centre for European Law and Governance, Working Paper Series 2014 - 04, pp. 21-23: https://www.statelessness.eu/sites/www.statelessness.eu/files/attachments/resources/Statelessness%20Determination%20in%20the%20Netherlands%20Katja%20Swider.pdf</p> <p>Proposal for an Act on the Determination of Statelessness, 2016: https://www.internetconsultatie.nl/staatloosheid</p>

						A legislative proposal for a formal SDP was published in September 2016 and is due for discussion in Parliament. I.	
IDP	11	b		Are there obligations in law on authorities to consider a claim for statelessness made within another procedure?	See norm above at question IDP 2e.	No, there is no obligation in law to consider a claim for statelessness as statelessness is an administrative category and not a protection status in Dutch law, so the concept of “claim for statelessness” is not applicable in the Dutch context. Referral might take place to the administrative BRP procedure at municipal level, but this is only accessible for people with legal residence in the country.	Advisory Committee on Migration Affairs (ACVZ), 2013, <i>Geen land te bekenneen advies over de verdragsrechtelijke bescherming van staatlozen in nederland</i> , p.73: https://acvz.org/wp-content/uploads/2015/05/04-12-2013_GeenLandTeBekennen.pdf (D)
IDP	11	c		Are there clear instructions on how to make a claim for statelessness within the particular administrative procedure?	See norm above at question IDP 2b.	A legally staying person can request their municipality to register them as stateless in the BRP. Registration will take place if statelessness can be proven with highly reliable documents issued by a competent authority of a state, such as identity documents or court orders. The administrative procedure does not conduct research to acquire evidence on the nationality/statelessness of the applicant. In practice it is seen that the various municipalities execute the procedure differently.	Advisory Committee on Migration Affairs (ACVZ), 2013, <i>Geen land te bekenneen advies over de verdragsrechtelijke bescherming van staatlozen in nederland</i> , p.73: https://acvz.org/wp-content/uploads/2015/05/04-12-2013_GeenLandTeBekennen.pdf (D) Dutch Association for Civil Affairs, 2016: https://nvvb.nl/nl/vereniging/organisatie/adviesbureau/veelgestelde-vragen/#vraag24 (D)
IDP	11	d		Is the examination of statelessness conducted by a centralized or localised body?	See norm above at question IDP 2j.	By a localised body (the municipality), and sometimes the IND.	Katja Swider, 2014, <i>Statelessness Determination in the Netherlands</i> , Amsterdam Centre for European Law and Governance, Working Paper Series 2014 - 04, pp. 21-23: https://www.statelessness.eu/sites/www.statelessness.eu/files/attachments/resources/Statelessne

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IDP	11	e		Is there training to inform different governmental bodies about statelessness and determination procedures? Is there training of public officials in identifying statelessness? If yes, please provide details (i.e. who provides the training to whom and how often?)	See norm above at question IDP 2k.	There are no courses specifically targeted at government bodies and public officials. We see a need for more targeted and recurring trainings particularly targeted at civil servants. General trainings are available, that are sometimes also attended by state officials. For example, Katja Swider has provided a number of trainings at the University of Amsterdam, in addition to a number of symposia that have been attended by state officials (municipality employees, immigration officers, etc.). Furthermore, the Institute on Statelessness and Inclusion organised two trainings in 2016 on statelessness, targeted at a wider audience but among which civil servants were present.	<p>Amsterdam Centre for European Law and Governance, Statelessness in the Netherlands and the GBA: a practitioners workshop, 28 Nov 2012: http://acelg.uva.nl/content/events/workshops/2012/11/statelessness-in-the-netherlands-and-the-gba.html?origin=U%2BICGA%2BeSWGukSRCZF4ggw</p> <p>Cursus Staatloosheid in bestuurs-, nationaliteits- en vreemdelingenrecht, Eggen Instituut, Amsterdam, 12 March 2015: http://advocatenblad.nl/2015/01/08/de-agenda-voor-2015/ (D)</p> <p>Training delivered by ENS and Institute on Statelessness and Inclusion in Groningen and Tilburg, November 2016: http://www.stichtinglos.nl/agenda/trainingen-over-staatloosheid-nl-groningen-16nov-en-tilburg-25nov</p>
IDP	11	f		Is there cooperation between agencies that may come into contact with stateless persons? If so, how are cases referred to the appropriate authority for determination?	See norm above at question IDP 2l.	Cooperation may occur between the IND and municipalities. A municipality may consult the IND under 2.17 Law BRP to obtain necessary information on an individual's nationality. However, in practice, it is also observed that little effective cooperation takes place.	<p>Wet Basisregistratie personen (BRP) (Law on the Population Register) of 2013: http://wetten.overheid.nl/BWBR0033715/2015-09-01 (D)</p> <p>Katja Swider, 2014, Statelessness Determination in the Netherlands, Amsterdam Centre for European Law and Governance, Working Paper Series, 2014 – 04: https://www.statelessness.eu/sites/www.statelessness.eu/files/attachments/resources/Statelessness%20Determination%20in%20the%20Netherlands%20Katja%20Swider.pdf</p>

IDP	12	a	Definition of stateless person (APP)	Does the definition of a stateless person and the exclusion provisions align with the 1954 Convention? Please provide details.	<ul style="list-style-type: none"> • UN Convention Relating to the Status of Stateless Persons, 1954, Art. 1(1) & 1(2) 	There is no mention of exclusion clauses in Dutch law as statelessness is not a protection status in the Netherlands. The definition of a stateless person in Dutch law is slightly different from Art. 1(1) of the 1954 Convention: “a person that is not by any State, under its legislation, considered to be a national”. The original text of the Convention “under the operation of its law” is translated in the Netherlands as “ <i>krachtens diens wetgeving</i> ” or “under its legislation”, which is narrower than “under the operation of its law”.	Advisory Committee on Migration Affairs (ACVZ), 2013, <i>Geen land te bekenneneen advies over de verdragsrechtelijke bescherming van staatlozen in nederland</i> , p.43: https://acvz.org/wp-content/uploads/2015/05/04-12-2013_GeenLandTeBekennen.pdf (D)
IDP	13	a	Assessment (AAP)	What is the burden of proof when identifying an individual’s statelessness status?	See norm above at question IDP 4a.	<p>If a person requests to change their registration in the BRP from ‘nationality unknown’ to ‘stateless’, the applicant is asked to provide documents to support their claim. The burden of proof for evidencing statelessness lies fully on the applicant. This is confirmed by a judgment from the Court of Utrecht on 19 February 2013 (SBR 12/3509, para. 6), and by the Raad van State (High Court, para. 4.2-3), where it is stated that the applicant is responsible for handing over documents to prove a statelessness claim. There is no responsibility on the Municipality to research the statelessness of the applicant.</p> <p>2.17 Law BRP provides an opportunity for the municipality to obtain information regarding a person’s nationality through a statement from</p>	<p>Wet Basisregistratie personen (BRP) (Law on the Population Register) of 2013: http://wetten.overheid.nl/BWBR0033715/2015-09-01 (D)</p> <p>Dutch Association for Civil Affairs, 2016: https://nvvb.nl/nl/vereniging/organisatie/adviesbureau/veelgestelde-vragen/#vraag24 (D)</p> <p>Katja Swider, 2014, <i>Statelessness Determination in the Netherlands</i>, Amsterdam Centre for European Law and Governance, Working Paper Series, 2014 – 04, p.16: https://www.statelessness.eu/sites/www.statelessness.eu/files/attachments/resources/Statelessness%20Determination%20in%20the%20Netherlands%20Katja%20Swider.pdf</p> <p>Uitspraak Rechtbank Utrecht, 19 February 2013 (SBR 12/3509), <i>Dong vs. Het college van burgemeester en wethouders van de gemeente Utrecht</i>, para. 6.</p>

						the Minister of Security and Justice at the Dutch Immigration office (IND).	Uitspraak Raad van State, 21 May 2014 (201302776/1/A3) para. 4.2-3: https://www.raadvanstate.nl/uitspraken/zoeken-in-uitspraken/tekst-uitspraak.html?id=79205 (D)
IDP	13	b		What is the standard of proof? Is it the same as in asylum applications?	See norm above at question IDP 4b.	For BRP decisions the standard of proof is more like “beyond reasonable doubt” - documents are needed as proof. For asylum cases it is “reasonable degree” where the benefit of the doubt can be given in favour of the applicant.	Wet Basisregistratie personen (BRP) (Law on the Population Register) of 2013, Article 2.44-6: http://wetten.overheid.nl/BWBR0033715/2015-09-01 (D) Memorandum of Explanation of the Aliens Act 2000, Article 29, pp. 40-41: https://zoek.officielebekendmakingen.nl/kst-26732-3.html (D) Article 31(1), Aliens Act 2000: http://wetten.overheid.nl/BWBR0011823/2017-07-01#Hoofdstuk3_Afdeling4_Paragraaf1_Artikel31 (D)
IDP	13	c		Are decision makers presented with clear guidance on how to determine statelessness, including sources of evidence and procedures for evidence gathering to establish statelessness? Please provide details.	<ul style="list-style-type: none"> • ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices: determining authorities can benefit significantly from any concrete guidance that sets clear benchmarks and pathways for the establishment of material facts and circumstances. 	No, Municipalities generally do not gather evidence. The applicant has full responsibility for evidencing the claim with documents. Instructions on evidence make no distinction between foreign nationality and statelessness. Therefore, statelessness needs to be evidenced, according to the BRP and its implementing orders, through the same documents as a foreign nationality (i.e. a passport, identity document, or a court order by a competent authority of a relevant state). The special circumstances of stateless persons are not taken into account, so the wording of many instructions on evidence are simply not applicable to the situation of stateless persons.	Advisory Committee on Migration Affairs (ACVZ), 2013, <i>Geen land te beknennen advies over de verdragsrechtelijke bescherming van staatlozen in nederland</i> , pp. 71-73: https://acvz.org/wp-content/uploads/2015/05/04-12-2013_GeenLandTeBekennen.pdf (D) Dutch Association for Civil Affairs, 2016: https://nvvb.nl/nl/vereniging/organisatie/adviesbureau/veelgestelde-vragen/#vraag24 (D) Katja Swider, 2014, <i>Statelessness Determination in the Netherlands</i> , Amsterdam Centre for European Law and Governance, Working Paper Series 2014 – 04, pp.12-16: https://www.statelessness.eu/sites/www.statelessness.eu/files/attachments/resources/Statelessness%20Determination%20in%20the%20Netherlands%20Katja%20Swider.pdf

IDP	14	a	Procedural Protections (AAP)	Is there legal aid available during the application?	<ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: applicants are to have access to legal counsel; where free legal assistance is available, it is to be offered to applicants without financial means. • ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices: If state funded legal aid is available in the country it should be provided to stateless claimants. If there is no state funded legal aid... but asylum claimants can access legal aid free of charge, then the same level of access should be provided to stateless claimants. 	The BRP registration procedure is free of charge. There is legal aid available from the state to challenge the decision in court. If the person has insufficient income, lawyers affiliated with the <i>Raad voor Rechtsbijstand</i> (Council for Legal Aid) can request money for the procedure from the state.	<i>Raad voor Rechtsbijstand</i> website (Legal Aid Board in the Netherlands): http://www.rvr.org/english
IDP	14	b		Is an interview always offered (unless granting without interview)?	UNHCR (2014), Handbook on Protection of Stateless Persons : The right to an individual interview, and necessary assistance with translation/interpretation throughout the process, are essential to ensure that applicants have the opportunity to present their cases fully...	There is no interview necessary for the administrative procedure of registering someone as stateless in the BRP. To change a BRP registration you need to go in person to the 'Loket' (Desk) of the applicable Municipality and bring the necessary documents as proof. In most cases you can make an appointment in advance. An interview is not provided or necessary.	For example, information about BRP registration in the Municipality Apeldoorn: https://www.apeldoorn.nl/verzoek-wijzigen-gegevens (D) (similar to other municipalities)
IDP	14	c		Is an interpreter provided? Free of charge?	ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices : assistance should be available for translation and interpretation in respect of written applications and interviews (good practice is free of charge).	No, no interpreter is provided for registering or changing a registration in the BRP. Municipalities indicate that the person should bring an interpreter with them, or a member of staff may assist if someone speaks a shared language, or the person can return with a friend or relative to assist them.	Correspondence with the Municipalities of Amsterdam and Apeldoorn.

IDP	14	d		Are decisions given with reasons? In writing?	UNHCR (2014), Handbook on Protection of Stateless Persons: States are encouraged, therefore, to incorporate the following safeguards: [...] decisions are made in writing with reasons.	Yes. General rules of administrative process apply.	Dutch Association for Civil Affairs, Correction procedure BRP, 2015: https://nvvb.nl/media/cms_page_media/620/DEF%20NVVB-ledenadvies%20proces%20correctie%20onbeken-de%20gebdatum%20en%20nationaliteit%20MN.pdf (D)
IDP	15	a	Stateless Status (AAP)	Does identification of a person as stateless result in permission to stay/legal status or any other benefit to the individual? Please describe what status is provided and what benefits attach to it.	UNHCR (2014), Handbook on Protection of Stateless Persons: The 1954 Convention ...[grants] stateless persons a core set of rights. Its provisions, along with applicable standards of international human rights law, establish the minimum rights and the obligations of stateless persons in States party to the 1954 Convention. The status granted to a stateless person in a State Party... must reflect these international standards... Although the 1954 Convention does not explicitly require States to grant a person determined to be stateless a right of residence, granting such permission would fulfil the object and purpose of the treaty... It is therefore recommended that States grant persons recognised as stateless a residence permit valid for at least two years, although permits for a longer duration, such as five years, are preferable in the interests of stability. Such permits are to be renewable, providing the possibility of facilitated naturalization as prescribed by Article 32 of the 1954 Convention.	No, identification of a person as stateless does not result in permission to stay/legal status. Statelessness is merely an administrative category in Dutch law, not an immigration status or protection status. The current administrative procedure (BRP) only allows legally staying persons to be registered as stateless. If a person is provided with a statelessness registration they can: 1) request a travel document 2) naturalise through a simplified procedure (after 3yrs legal stay, foreign passport not required, lower cost) A child may (if legally residing) be able to access the right of option to Dutch nationality. Were the 1954 Convention to be applied directly, there is also a right to identity documents, however stateless persons are currently not able to enforce that right in court and no competent authority is appointed to issue these identity documents.	Statelessness page, Government of the Netherlands website: https://www.rijksoverheid.nl/onderwerpen/nederlandse-nationaliteit/inhoud/staatloosheid (D) Rechtbank Den Haag, 19 February 2014 (SGR 12/2490): statelessness does not lead to issuing of identity documents.

Detention

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
DET	1	a	Detention screening	Are immigration detention powers provided for in law?	<ul style="list-style-type: none"> • ICCPR Art 9 (1): Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law. • ECHR Art 5 (1): Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law: ... (f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition. 	Yes.	Chapter 5, Article 59(1), Vreemdelingenwet 2000: http://wetten.overheid.nl/BWBR0011823/2017-01-01#Hoofdstuk5 (D)
DET	1	b		In what circumstances does the law provide for immigration detention? Does domestic law allow immigration detention for purposes other than those allowed under ECHR 5(1)(f)?	<ul style="list-style-type: none"> • ECHR Art 5 (1)(f) 	A foreign national may be detained on the grounds of public order or national security, where there exists: <ol style="list-style-type: none"> risk that they will withdraw from supervision, or evade or impede preparation of departure or the expulsion procedure. An exhaustive list of further criteria is specified in the 'Aliens Decree' 2000. Significant grounds for detention are: irregular entry and avoiding supervision; disregarding the obligation to depart; not independently leaving the Netherlands after an order to do so; no or insufficient cooperation with establishing identity	Chapter 5, Article 59(1), Vreemdelingenwet 2000: http://wetten.overheid.nl/BWBR0011823/2017-01-01#Hoofdstuk5 (D) Chapter 5, Article 5.1a & 5.1b, Vreemdelingenbesluit 2000: http://wetten.overheid.nl/BWBR0011825/2017-01-01#Hoofdstuk5 (D) ENS/ASKV (2015), <i>Protecting Stateless Persons from Arbitrary Detention in the Netherlands</i> , p. 18: http://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_Netherlands.pdf

						and nationality; presenting wrong or contradicting information; deliberately destroying travel or identity documents; presenting fraudulent documents; having been declared an undesirable alien; indicating an intention to ignore one's duty to return. Light grounds for detention are: ignoring obligations when crossing a border; multiple applications for a residence permit that have not led to an approval; not having a fixed domicile; not having sufficient means of subsistence; undertaking labour without a permit; and being suspected or convicted for any crime. Detention can only be ordered when various conditions have been met cumulatively. The exhaustive list of further criteria seems to exceed the permissible grounds based on international standards.	
DET	1	c		<p>Does a proposed country of removal need to be identified before a person is detained for the purpose of removal? Please describe the situation in law and in practice.</p>	<ul style="list-style-type: none"> • ICCPR Art 7: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Repeated attempts to expel a person to a country where his/her well-being is not guaranteed and where he/she could be subject to cruel, inhuman or degrading treatment or punishment or to a country that is refusing to admit the individual in question could amount to inhuman or degrading treatment. • ECHR Art 5 (1)(f) • Auer v Bulgaria [2011] Application no 46390/10 (ECtHR): ...the only issue is whether or not the authorities were sufficiently diligent in their efforts to deport the applicant. 	<p>Detention is only permitted when a real prospect of removal exists, which has to be demonstrated in court by the authorities. The law does not state that a proposed country of removal needs to be identified, which is also the situation in practice. In addition to grounds related to fraud; a possibly serious criminal past; or a hand-over to another EU country; the need for additional inquiry into a person's identity or nationality is considered a valid reason to detain.</p>	<p>Chapter 5, Vreemdelingenwet 2000: http://wetten.overheid.nl/BWBR0011823/2017-01-01#Hoofdstuk5 (D)</p> <p>ENS/ASKV (2015), <i>Protecting Stateless Persons from Arbitrary Detention in the Netherlands</i>, pp. 13, 17-19: http://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Report_Netherlands.pdf</p>

				<ul style="list-style-type: none"> • EU Returns Directive: Any detention shall be for as short a period as possible and only maintained as long as removal arrangements are in progress and executed with due diligence. • ECRE, Point of No Return: The Futile Detention of Unreturnable Migrants, 2014: Once un-returnability is established, migrants should not be detained. 		
DET	1	d	<p>Is statelessness a juridically relevant fact in any decision to detain (in practice and in law)? If so, at what point(s) is a risk of statelessness identified? Is referral to an SDP possible within the detention regime?</p>	<ul style="list-style-type: none"> • Aaad v Bulgaria [2011] Application no 46390/10 (ECtHR): as above. • UNHCR (2014), Handbook on Protection of Stateless Persons: Routine detention of individuals seeking protection on the grounds of statelessness is arbitrary... For stateless persons, the absence of status determination procedures to verify identity or nationality can lead to prolonged or indefinite detention. SDPs are therefore an important mechanism to reduce the risk of prolonged and/or arbitrary detention. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 13 – states must identify stateless persons within their territory or subject to their jurisdiction as a first step towards ensuring the protection of their human rights. • International Commission of Jurists, Migration and International Human Rights Law: a Practitioner’s Guide 2014: the detention of stateless persons can never be justified when there is ‘no active or realistic progress towards transfer to another State’. 	<p>No, statelessness plays little to no role in the decision to detain, due to the government’s policy that return to a country of former habitual residence might still be possible. Moreover, most bilateral return agreements with countries of origin include a clause on re-admitting former residents who are (presumed) stateless. The Aliens Act demands every irregular migrant’s cooperation, stateless or otherwise. Referral to an SDP is not possible as there is no SDP currently in place.</p>	<p>ENS/ASKV (2015), <i>Protecting Stateless Persons from Arbitrary Detention in the Netherlands</i>, p. 18: http://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_Netherlands.pdf</p>

	1	e	Are stateless persons detained in practice? Please provide figures and source of information if available.	<ul style="list-style-type: none"> • Auad v Bulgaria [2011] Application no 46390/10 (ECTHR): as above. • UNHCR (2014), Handbook on Protection of Stateless Persons: as above. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: as above. • International Commission of Jurists, Migration and International Human Rights Law: a Practitioner’s Guide 2014: as above. 	Yes, but this has to be inferred from general statistics because of the lack of a statelessness determination procedure. The overall use of immigration detention has decreased considerably in recent years. In 2011 the number of people who entered immigration detention was 5,844, in 2015 this was 1, 852. It rose again in 2016 to 2,230 people.	ENS/ASKV (2015), <i>Protecting Stateless Persons from Arbitrary Detention in the Netherlands</i> , p. 14: http://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_Netherlands.pdf Dienst Justitiële Inrichtingen (Judicial Institution Service), 2017. ‘DJI in numbers : 2012-2016’: https://www.dji.nl/themas-cijfers-en-publicaties/cijfers-en-publicaties/kerncijfers-dji.aspx (D)
DET	1	f	Does law (and/or policy) provide that immigration detention should be used only as a last resort, after all alternatives to detention have been exhausted?	<ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: Detention is therefore a measure of last resort and can only be justified where other less invasive or coercive measures have been considered and found insufficient to safeguard the lawful governmental objective pursued by detention. • EU Returns Directive: Art 15(1) Unless other sufficient but less coercive measures can be applied effectively in a specific case, Member States may only keep in detention a third-country national who is the subject of return procedures in order to prepare the return and/or carry out the removal process. 	The Dutch authorities consider immigration detention as a last resort. The law (Article 59c) provides that immigration detention under Arts. 59, 59a and 59b can only be used as a last resort.	The Government of the Netherlands website, Immigration Detention: https://www.rijksoverheid.nl/onderwerpen/terugkeer-vreemdelingen/inhoud/vreemdelingenbewaring (D) Custodial Institutions Agency, Government of the Netherlands website, <i>Wie zitten er in vreemdelingenbewaring?</i> (Who is in immigration detention?): https://www.dji.nl/justitiabelen/vreemdelingen_in_bewaring/dji-wie-in-bewaring.aspx (D) Article 59(c)(1), Vreemdelingenwet 2000: http://wetten.overheid.nl/BWBR0011823/2017-01-01#Hoofdstuk5 (D)
DET	1	h	Are individual vulnerability assessments carried out before a	<ul style="list-style-type: none"> • ENS (2015) Protecting Stateless Persons from Arbitrary Detention: a regional toolkit for practitioners: Arbitrary and disproportionately lengthy detention can ensue when the particular 	No, not yet. According to the new draft legislation on return and detention, more attention should be paid to vulnerability with regard to detention. However, there are no	34 309 Rules relating to the return of foreigners and aliens’ detention (Act on return and aliens’ detention), draft legislation, 2015: https://zoek.officielebekendmakingen.nl

				<p>decision to detain (or shortly thereafter), and are stateless persons defined as a vulnerable group?</p>	<p>vulnerabilities of stateless persons are not understood and addressed...</p> <ul style="list-style-type: none"> • EU Returns Directive: Art 16(3) Particular attention shall be paid to the situation of vulnerable persons... • UNHCR (2012), Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention : The special circumstances and needs of particular asylum-seekers must be taken into account... • Council of the European Union Guidelines to Promote and Protect the Enjoyment of All Human Rights by Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Persons 2013: European entities should assess the situation of LGBTI persons in detention... 	<p>concrete improvements laid down in the draft, and the term vulnerability is not defined in the draft legislation.</p>	<p>/kst-34309-2.html (D) and Memorie van toelichting (Explanatory Memorandum): https://zoek.officielebekendmakingen.nl/kst-34309-3.html (D)</p>
DET	1	i		<p>Are there measures to protect stateless persons scheduled for deportation because of criminal records from arbitrary detention?</p>	<ul style="list-style-type: none"> • OHCHR, Administrative Detention of Migrants: [detention] should last only for the time necessary for the deportation/expulsion to become effective. • Mikolenko v. Estonia, Application no. 10664/05, 8 October 2009 (ECtHR): Detention is justified as long as “deportation proceedings are being conducted” and these proceedings must be carried out with due diligence... when expulsion becomes impossible, the continuation of detention “cannot be said to have been effected with a view to his deportation as this was no longer feasible.” 	<p>No data available. From experience it is likely that the person will be put in immigration detention after release from prison, and only after removal proves impossible will they be released. The Court can judge every month whether a prospect of removal still exists. Practice shows that a prospect of removal most often still exists according to the Court in the first six months. After these six months an extension decision will be made by the Court.</p>	<p>ASKV practice/casework.</p>
DET	2	a	<p>Alternatives to immigration detention</p>	<p>Does the country have alternatives to detention which individuals are considered for</p>	<ul style="list-style-type: none"> • ICCPR Art 9 • FKAG v Australia (HRC): Any decision relating to detention must take into account less invasive means of achieving the same ends... • UN General Assembly Resolution on the protection of migrants 63/184 2009: Calls upon all 	<p>Currently the only provision is in the Aliens Act Implementation Guidelines [<i>vreemdelingencirculair</i>] which state that “the foreigner’s file must demonstrate that the official charged with border monitoring or supervision of foreigners has properly weighed</p>	<p>ENS/ASKV (2015), <i>Protecting Stateless Persons from Arbitrary Detention in the Netherlands</i>, p. 13 & 22: http://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_Netherlands.pdf</p>

				<p>prior to any decision to detain? Are alternatives to detention established in law? Are they subject to a statutory time limit and periodic reviews of their necessity and proportionality ?</p> <p>States ... to adopt, where applicable, alternative measures to detention.</p> <ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: Detention...can only be justified where other less invasive or coercive measures have been considered and found insufficient... Alternatives to detention...are part of any assessment of the necessity and proportionality of detention. • UNHCR (2012), Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention : alternatives to detention refers to any legislation, policy or practice that allows asylum-seekers to reside in the community subject to a number of conditions or restrictions on their freedom of movement and since they can involve restrictions on movement of liberty they are bound by human right standards. • Human Rights Council (HRC), Report of the Special Rapporteur on the human rights of migrants, François Crépeau (2012) A/HRC/20/24: Alternatives to detention should not become alternatives to unconditional release [...] the obligation to always consider alternatives to detention (non-custodial measures) before resorting to detention should be established by law. • Council of Europe (2005), Twenty Guidelines of the Committee of Ministers of Europe on Forced Return: After a careful examination of the necessity of deprivation of liberty in each individual case, the authorities of the host state have concluded that compliance with the removal order cannot be ensured as effectively by resorting to non-custodial measures such as supervision systems, the requirement to report regularly to the authorities, bail or other guarantee systems. 	<p>interests before imposing detention”. The current available alternatives to detention are:</p> <ol style="list-style-type: none"> a. Notice to leave the Netherlands (administrative formality, usually applied when (forced) return is impossible) b. A reporting duty combined with intensive DT&V case Management c. A bail system to prevent people from absconding d. Confiscating documents - often combined with reporting duty. Usually applied for people who cooperate with return. e. Freedom-restricting measures for people who cooperate with return. f. ‘Airport lounge’ alternative to border detention for people who independently prepare to return. <p>Article 59 of the Aliens Act is currently subject to considerable amendment. Upon acceptance of legislative changes by Parliament, detention may be used only as a measure of last resort (<i>ultimum remedium</i>), after it has been established that no less intrusive measures can be used. Furthermore, the annex to the draft law places an “investigative duty” to consider alternatives. However, neither current legislation nor the announced reforms clearly specify how this duty to consider alternatives is to be guaranteed in individual cases.</p>	<p>34 309 Rules relating to the return of foreigners and aliens’ detention (Act on return and aliens’ detention), draft legislation, 2015: https://zoek.officielebekendmakingen.nl/kst-34309-2.html (D) and Memorie van toelichting (Explanatory Memorandum): https://zoek.officielebekendmakingen.nl/kst-34309-3.html (D)</p>
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				<ul style="list-style-type: none"> • EU Returns Directive: Art 15(1) Unless other sufficient but less coercive measures can be applied effectively in a specific case, Member States may only keep in detention a third-country national who is the subject of return procedures in order to prepare the return and/or carry out the removal process. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: (31) ...states have an obligation in the first instance to consider and apply appropriate and viable alternatives to immigration detention that are less coercive and intrusive than detention, ensure the greatest possible freedom of movement and that respect the human rights of the individual. International Detention Coalition (2015), There Are Alternatives: A handbook for preventing unnecessary immigration detention (revised edition): immigration detention should be used only as a last resort in exceptional cases after all other options have been shown to be inadequate in the individual case. 		
DET	2	b	<p>Is there evidence that immigration detention is used in practice prior to all alternatives being considered? Please cite relevant reports.</p>	As above	In practice, immigration detention is not only used as a last resort. Often it is applied too frequently and for too long.	Vreemdelingendetentie in Nederland: mensenrechten als maatstaf, Amnesty International, 2013, p.3: https://www.amnesty.nl/content/uploads/2016/11/ai-13-36-rap-reemdelingendetentie-lr.pdf?x82182 (D)

DET	3	a	Procedural safeguards	<p>Is there a maximum time period for immigration detention set out in the law? What is it?</p> <ul style="list-style-type: none"> • UN Human Rights Council (HRC) (2010), Report of the UN Working Group on Arbitrary Detention to the Human Rights Council, 13th Session, A/HRC/13/30: a maximum period of detention must be established by law and upon expiry of this period the detainee must be automatically released. • UNHCR (2012), Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention : to guard against arbitrariness, maximum periods of detention should be set in national legislation. • EU Returns Directive: Art 15(5) Each Member State shall set a limited period of detention, which may not exceed six months (extendable by 12 months in specific circumstances of the detainee refusing to cooperate with removal proceedings or delays in obtaining documentation from third countries). • ENS (2015) Protecting Stateless Persons from Arbitrary Detention: a regional toolkit for practitioners: It is desirable that states clearly specify a reasonable maximum time limit. Under no circumstances should indefinite detention be tolerated. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 39 Detention should always be for the shortest time possible. There should be a reasonable maximum time-limit for detention. It is highly desirable that states do not detain stateless persons for more than six months. States which at present have a lower than six-month maximum time-limit for detention are urged not to increase it, and all states are urged to review and reduce their maximum time limit for detention. 	<p>A person without legal residence (para.1(a)) can be detained in immigration detention for a maximum period of 6 months (para. 5). This can then be extended by another 12 months with a total maximum of 18 months (para. 6).</p>	<p>Article 59, Vreemdelingenwet 2000: http://wetten.overheid.nl/BWBR0011823/2017-01-01#Hoofdstuk5 (D)</p>
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DET	3	h	Does law/policy provide that individuals must be informed in writing of the reasons for immigration detention?	<ul style="list-style-type: none"> • UN General Assembly (UNGA) (1988), Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Resolution A/RES/43/173: Anyone who is arrested shall be informed at the time of his arrest of the reason for his arrest and shall be promptly informed of any charges against him. • EU Returns Directive: Detention shall be ordered in writing with reasons being given in fact and in law. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 37 Stateless detainees shall receive their order of detention in writing and in a language they understand and this must outline the reasons for their detention. 	Yes	Article 5.3(1), Vreemdelingenbesluit 2000: http://wetten.overheid.nl/BWBR0011825/2017-01-01#Hoofdstuk5 (D)
DET	3	b	Are all detainees provided with information on their rights, contact details of organisations to assist them, including in challenging the legality of their detention and conditions of detention? Does this include guidance on how to access a dedicated SDP?	<ul style="list-style-type: none"> • International Commission of Jurists (ICJ) (2014), Migration and International Human Rights Law: a Practitioner’s Guide (updated edition): The authorities are required to take steps to ensure that sufficient information is available to detained persons in a language they understand, regarding the nature of their detention, the reasons for it, the process for reviewing or challenging the decision to detain. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 37 Detainees must be informed of their rights related to the detention order, including the right to legal advice, the right to apply for bail, seek judicial review and/or appeal the legality of the detention. Where appropriate, they should receive free legal assistance; they must be informed of the maximum time limit which they can be held in detention; and they must be provided with a handbook in a language which they understand and 	Detainees are informed about challenging the legality of their detention and the opportunity to receive free legal aid. There is no guidance on how to access a dedicated SDP as this is not in place yet.	Article 5.3(1), Vreemdelingenbesluit 2000: http://wetten.overheid.nl/BWBR0011825/2017-01-01#Hoofdstuk5 (D)

					that contains information on all their rights and entitlements during detention.		
DET	3	c		<p>Are there regular periodic reviews of the necessity for the continuation of detention before a court or an independent body? If yes, are detainees released when it becomes evident that their removal will not be possible within a reasonable time?</p>	<ul style="list-style-type: none"> • ICCPR Art 9(3): Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. • EU Returns Directive: Any detention shall ... only be maintained as long as removal arrangements are in progress and executed with due diligence. • Auad v Bulgaria [2011] Application no 46390/10 (ECtHR): ...the only issue is whether or not the authorities were sufficiently diligent in their efforts to deport the applicant... the length of the detention should not exceed that reasonably required for the purpose pursued. • Kim v Russia [2014] Application no 44260/13 (ECtHR): The purpose of Art 5(4) ECHR is to guarantee to persons who are arrested and detained the right to judicial supervision of the lawfulness of the measure to which they are thereby subjected. • A. v. Australia, CCPR/C/59/D/560/1993, (HRC): Decisions to detain should be open to review periodically so that the grounds justifying the detention can be assessed. • Saïd Shamilovich Kadzoev v Direktsia Migratsia' priMinisterstvo na vatreshniteraboti [2009] Case C-357/09 (ECJ): There must, at the time of the national Court's review of the lawfulness of detention, be a real prospect that the removal can be carried out successfully. • Council of Europe (2005), Twenty Guidelines of the Committee of Ministers of Europe on Forced Return: Detention pending removal shall be justified only for as long as removal arrangements are in progress. If such arrangements are not 	<p>People may be held in pre-detention at the police station for a few days, before being transferred to a detention centre. There the process of removal is initiated by the DT&V (Return & Departure Service), and the decision to detain is then submitted to a court, "legally within four weeks but in practice after 10-12 days in detention". Within two weeks of submission the court is obliged to render a judgment, which can be appealed. After six months, another judicial review is mandatory, if the DT&V decides to extend detention for a maximum of twelve more months.</p>	<p>ENS/ASKV (2015), <i>Protecting Stateless Persons from Arbitrary Detention in the Netherlands</i>, pp. 17-18: http://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_Netherlands.pdf</p>

				<p>executed with due diligence the detention will cease to be permissible.</p> <ul style="list-style-type: none"> • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 41 To avoid arbitrariness, detention should be subject to automatic, regular and periodic review throughout the period of detention, before a judicial body independent of the detaining authorities. 		
DET	3	d	<p>What remedies are available to an individual to challenge detention? How often can these be invoked? Are there any obstacles in practice?</p>	<ul style="list-style-type: none"> • ICCPR Art 9(4): Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful. • ECHR: Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful. • Kim v Russia [2014] Application no 44260/13 (ECtHR): the purpose of Art 5(4) ECHR is to guarantee to persons who are arrested and detained the right to judicial supervision of the lawfulness of the measure to which they are thereby subjected. 	<p>Detainees can ask a judge to re-examine the lawfulness of their incarceration at any time, for instance checking the continued prospect of deportation. In these proceedings, appeal is not possible.</p>	<p>ENS/ASKV (2015), <i>Protecting Stateless Persons from Arbitrary Detention in the Netherlands</i>, pp. 17-18: http://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_Netherlands.pdf</p> <p>Article 94, Vreemdelingenwet 2000: http://wetten.overheid.nl/BWBR0011823/2017-01-01#Hoofdstuk7 (D) (challenging enforcement of detention)</p> <p>Article 96, Vreemdelingenwet 2000: http://wetten.overheid.nl/BWBR0011823/2017-01-01#Hoofdstuk7 (D) (subsequent remedy)</p>
DET	3	e	<p>Are there rules/guidance in place that govern the process of re-documentation and/or ascertain entitlement to nationality, for the purpose of</p>	<ul style="list-style-type: none"> • Auad v Bulgaria [2011] Application no 46390/10 (ECtHR): The only issue is whether or not the authorities were sufficiently diligent in their efforts to deport the applicant. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: The inability of a stateless person to cooperate with removal proceedings should not be treated as non-cooperation (see also above). • ENS (2015) Protecting Stateless Persons from Arbitrary Detention: a regional toolkit for 	<p>While a person is in detention, so called 'return interviews' are conducted with the DT&V officer to facilitate return and help with guidance on re-documentation. The Dutch authorities (DT&V) will present the person at the relevant embassies for a laissez-passer and sometimes necessary calls for further information from local authorities will be made. The person is responsible for all other</p>	<p>ENS/ASKV (2015), <i>Protecting Stateless Persons from Arbitrary Detention in the Netherlands</i>, pp. 12, 20-22: http://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_Netherlands.pdf</p>

				<p>removal? Do these rules articulate the respective roles that state and individual are expected to play? Are there time limits clearly set out? Are the outcomes of such processes used/considered relevant for subsequent determination of whether an individual is stateless?</p>	<p><u>practitioners</u>: The detaining state should have rules in place that govern the process of re-documentation and/ or ascertaining entitlement to nationality...the respective roles that the state and the individual should be expected to play and related time limits should be clearly articulated. The longer it takes to do so, detention is more likely to become unreasonable and disproportionate.</p> <ul style="list-style-type: none"> • ECRE, Point of No Return: The Futile Detention of Unreturnable Migrants, 2014: Once un-returnability is established, migrants should not be detained. Detention should not be used for nationals of countries to which forced returns are not generally possible. 	<p>matters involved in re-documentation. They are obliged to obtain documents that prove their nationality and identity. Without these documents presentations at the embassy are often futile. In practice people waste years in detention trying to secure travel documents through futile embassy visits. Civil society organisations advocate for a time limit to be set, as many embassies have a reputation of taking a very long time to respond to requests if at all. The outcome of this process may inform the so called 'no-fault' procedure in which a person can obtain a residence permit on the basis that they are unable to return due to no fault of their own. This procedure is strongly criticised due to its one-sided and stringent burden of proof; its low approval rate; the absent formal recognition of statelessness and subsequent difficulty in invoking the rights enshrined in the Statelessness Conventions; the provision of considerable subjective discretion to immigration authorities; and the requirement that there is no uncertainty about the applicant's identity and nationality.</p>	
DET	3	f		<p>Is free legal aid available to challenge detention? Are there any barriers to</p>	<ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: Judicial oversight of detention is always necessary and detained individuals need to have access to legal representation, including free counselling for those without means. 	<p>Yes, free legal aid is available. If the person has insufficient income, lawyers affiliated with the "Raad voor Rechtsbijstand" (Council for Legal Aid) can request money for the procedure from the state. By law, a lawyer will be</p>	<p>Article 5.3(1), Vreemdelingenbesluit 2000: http://wetten.overheid.nl/BWBR0011825/2017-01-01#Hoofdstuk5 (D)</p>

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				<p>accessing this in practice?</p> <ul style="list-style-type: none"> • EU Returns Directive: Art 13(3) The third-country national concerned shall have the possibility to obtain legal advice, representation and, where necessary, linguistic assistance. 	<p>assigned on detention. In practice, there are reports from people in detention of difficulties with lawyers, including communication difficulties due to people not having credit to call their lawyer from detention, or lack of interpreters, or lack of knowledge of detention law among asylum lawyers.</p>	<p>Website of the Raad voor Rechtsbijstand (Legal Aid Board in the Netherlands): http://www.rvr.org/english</p> <p>Website of the Judiciary of the Netherlands: https://www.rechtspraak.nl/Uw-Situatie/Onderwerpen/Vreemdelingenbewaring/Paginas/procedure.aspx#ad340537-dbf5-4957-9095-8ee4159993130 (D)</p> <p>Information provided by <i>Meldpunt Vreemdelingendetentie</i> (Immigration Detention Hotline): http://meldpuntvreemdelingendetentie.nl/ (D)</p>
DET	4	a	<p>Protection s on release</p>	<p>Are those released from detention issued with any identification, including confirmation of their statelessness status, and thus protected from arbitrary re-detention?</p> <ul style="list-style-type: none"> • UN Convention Relating to the Status of Stateless Persons, 1954: Art 27 • UNHCR (2014), Handbook on Protection of Stateless Persons: Stateless persons, by its very nature, severely restricts access to basic identity and travel documents that nationals normally possess. Moreover, stateless persons are often without a legal residence in any country. Thus, being undocumented or lacking the necessary immigration permits cannot be used as a general justification for detention of such persons. • ENS (2015) Protecting Stateless Persons from Arbitrary Detention: a regional toolkit for practitioners: Article 27 of the 1954 Statelessness Convention... applies to all stateless persons, which includes those not staying legally in the state's territory... state parties to the 1954 Convention have an obligation to provide stay rights to stateless persons who have been released from detention. 	<p>No. After release, re-detention is possible immediately, if circumstances have changed that justify the re-detention.</p>	<p>Article 5/6.7, Vreemdelingen-circulaire 2000: http://wetten.overheid.nl/BWBR0012287/2017-04-01#Circulaire.divisieA5 (D)</p>

					<ul style="list-style-type: none"> • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guidelines 55 & 56 Special care should be taken to address the vulnerabilities of stateless persons who are released from detention and to ensure that they enjoy all human rights which they are entitled to under international law... Released stateless detainees should be provided with appropriate documentation and stay rights suitable to their situation. 		
DET	4	b		<p>If the purpose of detention cannot be fulfilled (e.g. removal) and the person is released, what legal status is provided to them by law? Can they access social services, accommodation, welfare, education and healthcare? Do they have the right to work?</p>	<ul style="list-style-type: none"> • Saïd Shamilovich Kadzoev v Direktsia Migratsia' pri Ministerstvo na vatreshnite raboti [2009] Case C-357/09 (ECJ): Article 15(4) and (6) of the Directive should be interpreted as requiring that after the maximum period of detention has expired, the person must be released immediately... the individual's lack of valid documentation, his/her inability to support him/herself or his/her "aggressive conduct" should not be a deterrent to his/her release. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 55 as above. 	<p>There is no legal status provided by law after release. A person will not be able to access social services, accommodation, welfare, education and healthcare nor have the right to work. It is possible that the person could apply for legal status through the so called 'no-fault' procedure in which a person can obtain a residence permit on the basis that they are unable to return due to no fault of their own. This procedure is strongly criticised due to its one-sided and stringent burden of proof; its low approval rate; the absent formal recognition of statelessness and subsequent difficulty in invoking the rights enshrined in the Statelessness Conventions; the provision of considerable subjective discretion to immigration authorities; and the requirement that there is no uncertainty about the applicant's identity and nationality.</p>	<p>ENS/ASKV (2015), <i>Protecting Stateless Persons from Arbitrary Detention in the Netherlands</i>, pp. 25, 27: http://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_Netherlands.pdf</p>
DET	4	c		<p>If re-detention does occur, is the cumulative</p>	<p>Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 40 When calculating the total time spent</p>	<p>No, even though time limits exist for each individual detention period, the practice of re-detention in the</p>	<p>ENS/ASKV (2015), <i>Protecting Stateless Persons from Arbitrary Detention in the Netherlands</i>, p. 25:</p>

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				time spent in detention counted towards any maximum time limits?	by an individual in detention, it is highly desirable that time spent in detention on previous occasions is taken into consideration.	Netherlands makes the total detention duration theoretically limitless.	http://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_Netherlands.pdf
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Prevention and Reduction

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
PRS	1	a	Stateless born on territory	Is there a provision in law for stateless children born on the territory to be granted nationality? If yes, continue with PRS1b below. If no, proceed to PRS1j.	<ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: A Contracting State shall grant its nationality to a person born in its territory who would otherwise be stateless... • European Convention on Nationality, 1997: Each State Party shall provide in its internal law for its nationality to be acquired by children born on its territory who do not acquire at birth another nationality... • Convention on the Rights of the Child 1989: The child shall have... the right to acquire a nationality... States Parties shall ensure the implementation of these rights...in particular where the child would otherwise be stateless... States Parties undertake to respect the right of the child to preserve his or her identity, including nationality... Genovese v. Malta (ECtHR) Application No. 53124/09, 11 October 2011 	Yes.	Article 6(1)(b), Rijkswet op het Nederlanderschap (Act on Dutch Nationality): http://wetten.overheid.nl/BWBR0003738/2014-01-20#Hoofdstuk3 (D)
PRS	1	b		Is the provision for stateless children to access nationality automatic or non-automatic (i.e. by application)?	<ul style="list-style-type: none"> • UNHCR Guidelines on Statelessness #4 2012: Article 1 of the 1961 Convention provides Contracting States with two alternative options for granting nationality to children who would otherwise be stateless born in their territory. States can either provide for automatic acquisition of nationality upon birth pursuant to Article 1(1)(a), or for acquisition of nationality upon application pursuant to Article 1(1)(b) ... • ENS (2015), No Child Should Be Stateless: Article 1 of the 1961 Convention and article 6(2) of the ECN are the most important of these norms for the European context. Both oblige the conferral of nationality to children born on the territory if they would otherwise be stateless but allow some leeway in how states transpose this safeguard into their domestic systems. The first, 	It is non-automatic. A written statement must be made that is approved. The child needs to meet the following criteria: <ul style="list-style-type: none"> a. born on the territory b. at least 3 years continuous legal and permanent residence on the territory c. stateless since birth 	Article 6(1), Rijkswet op het Nederlanderschap: http://wetten.overheid.nl/BWBR0003738/2014-01-20#Hoofdstuk3 (D)

					and optimal, method – as it is all-encompassing and does not tolerate even a temporary period of statelessness – is to grant nationality to otherwise stateless children automatically, at birth.		
PRS	1	c		Is it a requirement that the parents are also stateless for the child to acquire the nationality of the host state?	<ul style="list-style-type: none"> • UNHCR Guidelines on Statelessness #4 2012: The test is whether a child is stateless because he or she acquires neither the nationality of his or her parents nor that of the State of his or her birth; it is not an inquiry into whether a child's parents are stateless. Restricting the application of Article 1 of the 1961 Convention to children of stateless parents is insufficient in light of the different ways in which a child may be rendered stateless and contrary to the terms of those provisions. • ENS (2015), No Child Should Be Stateless: Only allowing access to nationality for stateless children whose parents are stateless fails to account for the circumstance where the child's parent(s) do hold a nationality themselves, but are unable to pass this on... 	This is not a requirement mentioned in the law. There are circumstances in which the parent of the child may have nationality but cannot confer this on the child (e.g. mothers from Somalia). This is recognised by the Dutch state. Another example is children of Portuguese parents, who will be registered as stateless by the Dutch State due to Portuguese nationality law.	<p>Article 6(1), Rijkswet op het Nederlanderschap: http://wetten.overheid.nl/BWBR0003738/2014-01-20#Hoofdstuk3 (D)</p> <p>Advisory Committee on Migration Affairs (ACVZ), 2013, <i>Geen land te bekenneen advies over de verdragsrechtelijke bescherming van staatlozen in nederland</i>, pp.33-34: https://acvz.org/wp-content/uploads/2015/05/04-12-2013_GeenLandTeBekennen.pdf (D)</p> <p>Handleiding Uitvoeringsprocedures Brp (15 november 2016) (Implementing Procedures Manual for BRP employees), p. 146: https://www.rvig.nl/brp/document/en/richtlijnen/2016/11/16/handleiding-uitvoeringsprocedures-hup-versie-2-5 (D)</p>
PRS	1	d		Are children born stateless required to prove they cannot access another nationality to acquire nationality of the country of birth? If yes, please describe the requirement e.g. what is the standard	<ul style="list-style-type: none"> • UNHCR Guidelines on Statelessness #4 2012: A Contracting State to the 1961 Convention cannot avoid the obligations to grant its nationality to a person who would otherwise be stateless...based on its own interpretation of another State's nationality laws where this conflicts with the interpretation applied by the State concerned... the burden of proof must be shared between the claimant and the authorities... decision makers need to take into account Articles 3 and 7 of the 	No, there is no requirement to prove that the child cannot access another nationality. But it must be proven that the child is stateless, and the burden of proof lies with the applicant.	<p>UNCHR, 2011, Mapping statelessness in the Netherlands, p.49: http://www.refworld.org/docid/4ee65da2.html (E) and http://www.aoo.nl/downloads/2014-09-12-UN.pdf (D)</p> <p>Relevant case law includes:</p>

				and burden of proof, and how lack of any other nationality (i.e. statelessness) is determined in practice?	CRC and adopt an appropriate standard of proof, for example... ‘reasonable degree’... Requiring a higher standard of proof would undermine the object and purpose of the 1961 Convention. Special procedural considerations to address the acute challenges faced by children, especially unaccompanied children, in communicating basic facts with respect to their nationality are to be respected.		ABRvS, 17 augustus 2016, 201504891/1/A3 ABRvS, 30 november 2016, 201506952/1/A3 ABRvS, 15 oktober 2014, 201402113/1/A3 ABRvS, 21 mei 2014, 201302776/1/A3
PRS	1	e		Is a stateless child born on the territory required to fulfil a period of residence to be granted nationality? If yes, what is it? Must this be legal and/or permanent residence?	<ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: A Contracting State may make the grant of its nationality...subject to one or more of the following conditions: ...b) that the person concerned has habitually resided in the territory of the Contracting State for such period as may be fixed by that State, not exceeding five years immediately preceding the lodging of the application nor ten years in all. • UNHCR Guidelines on Statelessness #4 2012: States may stipulate that an individual who would otherwise be stateless born in its territory fulfils a period of “habitual residence” This period is not to exceed five years immediately preceding an application nor ten years in all. In light of the standards established under the CRC, these periods are lengthy. States which ...require a certain period of habitual residence are encouraged to provide for a period as short as possible...The term “habitual residence” is ...to be understood as stable, factual residence. It does not imply a legal or formal residence requirement. The 1961 Convention does not permit Contracting States to make an application for the acquisition of nationality by individuals who would otherwise be stateless conditional upon lawful residence. • Convention on the Rights of the Child 1989: 	Yes, the stateless child should have had legal and habitual residence for a continuous period of at least 3 years.	Article 6(1)(b), Rijkswet op het Nederlanderschap: http://wetten.overheid.nl/BWBR0003738/2017-03-01#Hoofdstuk3 (D)

					<p>Arts 3 & 7</p> <ul style="list-style-type: none"> • Committee on the Rights of the Child, Concluding observations on the 4th periodic report of the Netherlands CRC/C/NDL/CO/4, 2015: The Committee recommends that the State party ensure that all stateless children born in its territory, irrespective of residency status, have access to citizenship without any conditions. • European Convention on Nationality, 1997: Article 6 (2)(b) ... Such an application may be made subject to the lawful and habitual residence on its territory for a period not exceeding five years immediately preceding the lodging of the application. • ENS (2016), Ending Childhood Statelessness: The ECN cannot be interpreted as undermining states' obligations under the CRC...and the requirement of lawful residence should be removed. 		
PRS	1	f		<p>Are the parents of a stateless child required to fulfil a period of residence for the child to be granted nationality? If yes, what is it? Must this be legal and/or permanent residence?</p>	<ul style="list-style-type: none"> • Committee on the Rights of the Child, Concluding Observations Czech Republic CRC/C/CZE/CO/3-4, 2011: The outcome of an application for citizenship, legal residence or similar status by the parents of a child born on the territory should not prejudice the right of the child to acquire the nationality of the State party where the child would otherwise be stateless. • ENS (2015), No Child Should Be Stateless: Demanding that the child or his/her parents reside lawfully on the territory is... prohibited by the 1961 Convention which permits only the condition of a certain period of habitual residence. 	No.	<p>Article 6(1)(b), Rijkswet op het Nederlanderschap: http://wetten.overheid.nl/BWBR0003738/2017-03-01#Hoofdstuk3 (D)</p>

PRS	1	g	What are the age limits, if any, for making an application for nationality for a stateless person born on the territory?	<ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: A Contracting State may make the grant of its nationality...subject to one or more of the following conditions: (a) that the application is lodged during a period... beginning not later than at the age of eighteen years and ending not earlier than at the age of twenty-one years... • UNHCR Guidelines on Statelessness #4 2012: ...Contracting States ...need to accept applications lodged at a time beginning not later than the age of 18 and ending not earlier than the age of 21 in accordance with Article 1(2)(a) of the 1961 Convention. • ENS (2015), No Child Should Be Stateless: ...any application procedure which only becomes available in late childhood or even upon reaching majority is particularly problematic [...] closing the window of opportunity to apply for a nationality through such safeguards too early has the effect of leaving it in the hands of parents to take the necessary steps to secure a nationality for their child and may mean children are left stateless due to the lack of action on the part of their parents. 	There is no age limit for making an application as a stateless person born on the territory.	Immigration and Naturalisation Service website, Opting for Dutch nationality: https://ind.nl/en/dutch-citizenship/Pages/Option.aspx
PRS	1	h	Are there specific provisions for the nationality or statelessness of children born to beneficiaries of international protection?	<ul style="list-style-type: none"> • UNHCR Guidelines on Statelessness #4 2012: Some children are born to refugee parents who are themselves stateless or cannot acquire the nationality of their parents owing to restrictions on transmission of nationality to children born abroad. Where the nationality of the parents can be acquired through a registration or other procedure, this will be impossible owing to the very nature of refugee status which precludes refugee parents from contacting their consular authorities. 	Persons with a permit on asylum grounds are not allowed to be required to request documents from their embassies under the Dutch Nationality Law. They are typically registered with the status 'nationality unknown'.	Handleiding Rijkswet op het Nederlanderschap 2003, para. 2.2.5.1: http://wetten.overheid.nl/BWBW33099/2017-04-01 (D)

PRS	2	a	Foundlings	Are foundlings granted citizenship <i>by law</i> ? If it's not automatic, is there an application procedure?	<ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: A foundling found in the territory of a Contracting State shall, in the absence of proof to the contrary, be considered to have been born within that territory of parents possessing the nationality of that State. • European Convention on Nationality, 1997: Each State Party shall provide in its internal law for its nationality to be acquired ex lege by the following persons: [...] b) foundlings found in its territory who would otherwise be stateless. 	Yes, foundlings are granted citizenship by law. This is automatic, a foundling will be regarded as a child of someone with Dutch nationality.	25 891 (R 1609) Wijziging van de Rijkswet op het Nederlanderschap met betrekking tot de verkrijging, de verlening en het verlies van het Nederlanderschap: https://zoek.officielebekendmakingen.nl/dossier/25891-(R1609)/kst-25891-7?resultIndex=39&sorttype=1&sortorder=4 (D) Article 3(2), Handleiding Rijkswet op het Nederlanderschap 2003: http://mijnwetten.nl/handleiding-rijkswet-op-het-nederlanderschap-2003/artikel3-2 (D)
PRS	2	b		If yes to either question immediately above, is there an age limit (or status e.g. 'newborn') specified for foundlings to be granted citizenship? If not, when would a child usually qualify in practice?	UNHCR Guidelines on Statelessness #4 2012 : At a minimum, the safeguard ... is to apply to all young children who are not yet able to communicate accurately information pertaining to the identity of their parents or their place of birth... If a State provides for an age limit for foundlings to acquire nationality, the age of the child at the date the child was found is decisive and not the date when the child came to the attention of the authorities.	No age limit or status is specified in the law, though it refers to 'young age' and 'a child'. The legal definition of a child is under 18 years-old, so this can be said to be the age limit.	Article 3(2), Handleiding Rijkswet op het Nederlanderschap 2003: http://mijnwetten.nl/handleiding-rijkswet-op-het-nederlanderschap-2003/artikel3-2 (D)
PRS	2	c		Can citizenship be withdrawn from foundlings if parents are identified even if this leads to statelessness?	UNHCR Guidelines on Statelessness #4 2012 : Nationality acquired by foundlings pursuant to Article 2 of the 1961 Convention may only be lost if it is proven that the child concerned possesses another State's nationality.	No, this is not possible. If it becomes clear that the child possesses another nationality within five years starting from the date on which the child is found, then the child is no longer regarded as having Dutch nationality. However, if this leads to statelessness then the child maintains Dutch nationality. If the	Article 3(2), Handleiding Rijkswet op het Nederlanderschap 2003: http://mijnwetten.nl/handleiding-rijkswet-op-het-nederlanderschap-2003/artikel3-2 (D)

						parents are identified after six years of birth, then the child retains Dutch nationality.	
PRS	3	a	Adoption	Where a child national is adopted by foreign parent(s), does the child lose their original nationality before the new nationality is adopted?	<ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: If the law of a Contracting State entails loss of nationality as a consequence of any change in the personal status of a person such as marriage, termination of marriage, legitimation, recognition or adoption, such loss shall be conditional upon possession or acquisition of another nationality. • European Convention on Nationality, 1997: Each State Party shall facilitate in its internal law the acquisition of its nationality for the following persons: ...d) children adopted by one of its nationals... Each State Party shall permit the renunciation of its nationality provided the persons concerned do not thereby become stateless. • Committee on the Rights of the Child, Concluding Observations: Switzerland, CRC/C/CHE/CO/2-04, 2015: [recommended that Switzerland] accelerate the assessment procedure and ensure that a child adopted from abroad is not stateless or discriminated against during the waiting period between his or her arrival in the State party and formal adoption. • ENS (2015), No Child Should Be Stateless: ...the “sending” state in a situation of inter-country adoption may be a non-European one, so even if Europe’s nationality laws were all in alignment with international standards, children may be exposed to a (temporary) risk of statelessness during the adoption process. 	<p>A child will not lose its Dutch nationality before another nationality has been adopted. Furthermore, a child may retain Dutch nationality in addition to the new nationality when the child:</p> <ol style="list-style-type: none"> also has a parent or adoptive parent who is Dutch at the time of the relevant act and as long as this (adoptive) parent is Dutch; Or before that date, if the Dutchman died (unless there is proof of fraudulent acts) becomes stateless (unless there is proof of fraudulent acts) is a third generation national (unless he waives Dutch citizenship, provided he has the nationality of a parent or adoptive parent) is given the same nationality as a parent or adoptive parent and his second (adoptive) parent is Dutch. Later loss of Dutch citizenship by this second (adoptive) parent is not relevant in this case; has been born in the country of the new nationality acquired and has his or her principal residence if he obtains the foreign nationality (unless he waives Dutch citizenship, provided he has the nationality of a parent or adoptive parent) has (or has had) a permanent residence for a continuous period of 	<p>Government of the Netherlands website, Minors and Dutch nationality: https://www.government.nl/documents/publications/2017/10/05/minors-and-loss-of-dutch-nationality</p>

						at least five years in the country of which he obtains the new nationality (unless he waives Dutch citizenship, provided he has the nationality of a parent or adoptive parent).	
PRS	3	b	Ius sanguinis and discrimination	<p>Can children of a parent who is a national, born outside the country, access nationality by descent (ius sanguinis)? Are there any conditions? Could these conditions be regarded as discriminatory? (see question below for where child would otherwise be stateless)</p>	<ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: Art 4 • UNHCR Guidelines on Statelessness #4 2012: ...where a child who would otherwise be stateless is born in a Contracting State to parents of another Contracting State but does not acquire the nationality of the State of birth automatically and either misses the age limit to apply for nationality or cannot meet the habitual residence requirement in the State of birth... responsibility falls to the Contracting State of the parents to grant its nationality to the child (or children) of its national... where children of a national of a Contracting State who would otherwise be stateless are born in a non-Contracting State... the Contracting State of the parents [is required] to grant its nationality to the child (or children) of its nationals born abroad... Article 4 of the 1961 Convention must be read in light of developments in international human rights law, in particular the right of every child to acquire a nationality... and the principle of the best interests of the child ... • Genovese v. Malta (ECtHR) Application No. 53124/09, 11 October 2011: While the right to citizenship is not as such a Convention right and while its denial in the present case was not such as to give rise to a violation of Article 8, the Court considers that its impact on the applicant’s social identity was such as to bring it within the general scope and ambit of that article. Maltese legislation expressly granted the right to 	<p>Yes, children with parents of Dutch nationality have access to nationality by descent. In the case of a Dutch father and a foreign mother, the father needs to officially acknowledge the child within 7 years of the birth if he is not married with the mother. If the Dutch father acknowledged the child at or after the age of 7, then the person acknowledging the child must present DNA evidence that shows that he is the biological father. He must do so within 1 year of the acknowledgement.</p> <p>A judgment from the Council of Europe found that the requirement of DNA proof is not in accordance with the European Convention on Nationality, although it is stated that it is not forbidden by the ECN. In addition, Prof. Gerard-Rene de Groot considers the requirement of a DNA test to be discriminatory and not in conformity with international standards.</p>	<p>Immigration and Naturalisation Service, Dutch citizen by birth or acknowledgement: https://ind.nl/en/dutch-citizenship/Pages/by-birth-or-acknowledgement.aspx</p> <p>Article 3(1) & 4, Handleiding Rijkswet op het Nederlanderschap 2003: http://mijnwetten.nl/handleiding-rijkswet-op-het-nederlanderschap-2003/artikel3-2 (D)</p> <p>ECLI:NL:PHR:2017:8, 13 January 2017, para. 2.26-2.27: https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:PHR:2017:8 (D)</p> <p>Oration Prof. Mr. Gerard-René de Groot, Towards a Toolbox for Nationality Legislation, pp. 14-17: https://cris.maastrichtuniversity.nl/portal/files/5717469/Oratie_Groot.pdf</p>

					<p>citizenship by descent and established a procedure to that end. Consequently, the state which has gone beyond its obligations under Article 8 in creating such a right [. . .] must ensure that the right is secured without discrimination within the meaning of Article 14.</p> <ul style="list-style-type: none"> • ENS (2015), No Child Should Be Stateless: States are free to impose additional conditions [to <i>Ius Sanguinis conferral</i>], as long as these are not discriminatory in nature... safeguards should again be in place to ensure that statelessness does not result.... • UNHCR Global Action Plan to End Statelessness 2014-24: Action 4 • Fighting statelessness and discriminatory nationality law in Europe, Laura van Waas, 2012 • Convention on the Elimination of all Forms of Discrimination Against Women, General recommendation No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, November 2014 		
PRS	3	c		<p>Can children of a parent who is a national, born outside the country, access nationality by descent (<i>Ius Sanguinis</i>) if they would otherwise be stateless? Are there any conditions? Could these conditions be regarded as discriminatory?</p>	As above	Yes, see above.	

PRS	4	a	Access to birth registration	<p>Does the law provide that all children are registered immediately upon birth? Can children be registered if parents are undocumented and/or not legally residing in the country (by law)?</p>	<ul style="list-style-type: none"> • Convention on the Rights of the Child 1989: The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents. • International Covenant on Civil and Political Rights 1966: Art 24(2) • Council of Europe, Recommendation CM/Rec (2009) 13 of the Committee of Ministers to member states on the nationality of children: register the birth of all children born on their territory, even if they are born to a foreign parent with an irregular immigration status or if the parents are unknown, in order to safeguard their right to a nationality. The registration of birth should be free of charge and be performed without delay, even if the period within which the birth should have been declared has already expired. • UNHCR Guidelines on Statelessness #4 2012: ... registration of the birth provides proof of descent and of place of birth and therefore underpins implementation of the 1961 Convention and related human rights norms. Article 7 of the CRC specifically requires the registration of the birth of all children and applies irrespective of the nationality, statelessness or residence status of the parents. • UNHCR Global Action Plan to End Statelessness 2014-24: Action 7 Ensure birth registration for the prevention of statelessness. • UN Sustainable Development Goal 16: By 2030, provide legal identity for all, including birth registration. • UN Human Rights Council, Resolution A/HRC/RES/20/4: Calls upon States to ensure 	<p>A child has to be registered within 3 days after the birth. A valid identity card is necessary upon registration. When neither parent has legal residence, the same conditions apply and there are multiple options to register the child (in order of preference):</p> <ol style="list-style-type: none"> 1. One of the parents who has a valid identity document (this doesn't have to be Dutch) 2. Someone who was present at the birth 3. Main tenant of the house 4. Officer of the civil registry. <p>If the child is born in hospital, a medical statement is also necessary with the date and time of birth and the sex. In order for the parents to be mentioned on the birth certificate if they do not have legal residence the following documents are necessary:</p> <ol style="list-style-type: none"> 1. Legalised birth certificate 2. Legalised statement of non-marriage or a copy of the marriage certificate 3. Identity document 	<p>Article 1:19e (6), BW (Civil Code): http://wetten.overheid.nl/BWBR0002656/2017-02-28 (D)</p> <p>Government of the Netherlands website, Declaration of birth: https://www.rijksoverheid.nl/onderwerpen/aangifte-geboorte-en-naamskeuze-kind/vraag-en-antwoord/aangifte-geboorte (D)</p> <p>Ilegaalkind.nl website, Who should make a birth declaration?: http://www.ilegaalkind.nl/?id=197&mainId=36 (D)</p> <p>LOS Foundation, Undocumented support point – having children: http://www.stichtinglos.nl/content/kinderen-krijgen (D)</p>
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					free birth registration, including free or low-fee late birth registration, for every child, and underscores the importance of effective birth registration and provision of documentary proof of birth irrespective of his or her immigration status and that of his or her parents or family members, which can contribute to reducing statelessness, as well as reducing vulnerability to trafficking in persons and other abuses and violations of their human rights.		
PRS	4	b		Are there credible reports that suggest that children are prevented from registering <i>in practice</i> because of lack of documentation and/or parents' legal residence?	<ul style="list-style-type: none"> • Convention on the Rights of the Child 1989: Art 7(1) • International Covenant on Civil and Political Rights 1966: Art 24(2) • Council of Europe, Recommendation CM/Rec (2009) 13 of the Committee of Ministers to member states on the nationality of children: as above. • UNHCR Guidelines on Statelessness #4 2012: as above. • UNHCR Global Action Plan to End Statelessness 2014-24: Action 7 • UN Sustainable Development Goal 16 • UN Human Rights Council, Resolution A/HRC/RES/20/4: as above 	In practice it is difficult to register children when parents are undocumented. In addition, parents are scared to register their child because of the risk of detention. In the case of victims of human trafficking, birth registration does not take place when the child is born outside of the Netherlands. In these cases, there is cooperation between the lawyer Else Weijnsfeld, Defence for Children, and DLA Piper in which DLA finances DNA tests so that late birth registration can take place.	ASKV Refugee Support and Defence for Children casework/practice.

PRS	4	c		<p>Are there mandatory reporting requirements for authorities which would deter undocumented parents coming forward to register their children (e.g. medical authorities required to report undocumented migrants)?</p>	<ul style="list-style-type: none"> • UNICEF, Access to Civil, Economic and Social Rights for Children in the Context of Irregular Migration, 2012: While there is generally a separation between civil registries and immigration enforcement, undocumented parents may also fear detection, particularly in countries where civil servants have a duty to report undocumented migrants... • PICUM, Rights of Accompanied Children in an Irregular Situation, 2011: Certain barriers that prevent access to basic rights for children in an irregular migration situation arise across the registry, health, education and housing sectors. National legislation is often below the standards set out in human rights law, inexplicit or contradicted by other rules and practices, such as the duty to denounce or administrative requirements. 	<p>The only evidence that can be found is that the municipality may pass along information on changes in a person's registration in the BRP to the Dutch immigration services (IND).</p>	<p>Autorisatiebesluit Minister van Veiligheid en Justitie ten behoeve van de Immigratie- en Naturalisatiedienst, Rijksdienst voor Identiteitsgegevens: https://zoek.officielebekendmakingen.nl/stcrt-2016-8560.html (D)</p>
PRS	5	a	Late Birth Registration	<p>Is there a statutory deadline before which birth registration should be completed? If yes, what is it? Is late birth registration possible by law?</p>	<ul style="list-style-type: none"> • UNHCR Global Action Plan to End Statelessness 2014-24: Low levels of birth registration can be difficult to correct subsequently because procedures for late birth registration have not been established or are lengthy, costly and complex and therefore inaccessible to undocumented populations... States also need procedures for late and delayed birth registration and may consider undertaking campaigns to register older children and adults. Birth registration needs to be free, accessible and undertaken on a non-discriminatory basis. • UN Human Rights Council, Resolution A/HRC/RES/20/4: as above. • Council of Europe, Recommendation CM/Rec (2009) 13 of the Committee of Ministers to member states on the nationality of children: as above. 	<p>Yes, within three days after birth. When the birth takes place during a weekend or holiday the term can be extended so that at least two working days remain to register the birth. Late registration is possible by law. The official in the relevant Municipality will inform the Public Prosecutor's office (Openbaar Ministerie (OM)) to inform the parent they are too late with registration. It is possible that the OM will impose a fine.</p>	<p>Article 1:19e, BW (Civil Code): http://wetten.overheid.nl/BWBR0002656/2017-02-28 (D)</p> <p>Government of the Netherlands website, Declaration of birth: https://www.rijksoverheid.nl/onderwerpen/aangifte-geboorte-en-naamskeuze-kind/vraag-en-antwoord/aangifte-geboorte (D)</p> <p>Municipality of Amsterdam website, Birth Declaration: https://www.amsterdam.nl/veelgeveraagd/?productid=%7BE353AEAA-5987-4C5B-AB9B-3C3DCF467046%7D#case_%7BF0DE4C68-FFEC-4B66-84DD-4B6DD78C4AFF%7D (D)</p>

					<ul style="list-style-type: none"> • ENS (2015), No Child Should Be Stateless: One of the ways in which states have sought to deal with an intergenerational lack of documentation is by simplifying the procedures for the late registration of births, making it easier for adults who do not have a birth certificate to acquire one, which can subsequently be used to register their own children’s births... 		
PRS	5	b	Is late birth registration possible in practice?	<ul style="list-style-type: none"> • UNHCR Global Action Plan to End Statelessness 2014-24: as above. • UN Human Rights Council, Resolution A/HRC/RES/20/4: as above. • Council of Europe, Recommendation CM/Rec (2009) 13 of the Committee of Ministers to member states on the nationality of children: as above. • ENS (2015), No Child Should Be Stateless: as above. 	It is possible, but it does present practical barriers. It is a long process requiring proof of where the birth has taken place. A DNA test can also be necessary, which is often expensive and hard to access for undocumented persons.	Immigration and Naturalisation Service website, Dutch citizen by birth or acknowledgement: https://ind.nl/en/dutch-citizenship/Pages/by-birth-or-acknowledgement.aspx Municipality of Amsterdam website, Birth Declaration: https://www.amsterdam.nl/veelgevraagd/?productid=%7BE353AEAA-5987-4C5B-AB9B-3C3DCF467046%7D#case_%7BF0DE4C68-FFEC-4B66-84DD-4B6DD78C4AFF%7D_(D)	
PRS	5	c	Are there any additional requirements (e.g. fee) for the late birth registration procedure? Are these problematic or do they cause lengthy delays?	<ul style="list-style-type: none"> • UN Human Rights Council, Resolution A/HRC/RES/20/4: as above. 	The Municipality of Amsterdam notes on its website that if the child is more than 6 weeks old, a doctor’s statement is necessary as supporting evidence. In practice, late birth registrations are usually seen by a judge before the birth is confirmed. This causes delays and costs extra money. Because the burden of proof lies with the individual and they may be in vulnerable circumstances (e.g. victims of human trafficking) it can be difficult to trace where the birth has taken place.	Municipality of Amsterdam website, Birth Declaration: https://www.amsterdam.nl/veelgevraagd/?productid=%7BE353AEAA-5987-4C5B-AB9B-3C3DCF467046%7D#case_%7BF0DE4C68-FFEC-4B66-84DD-4B6DD78C4AFF%7D_(D) ASKV casework/practice.	

Prevention and Reduction – December 2017

PRS	6	a	Awareness of birth registration	Does the government have programs in place to promote birth registration? If yes, please provide details.	<ul style="list-style-type: none"> • ENS (2015), No Child Should Be Stateless: as above. • UNHCR Global Action Plan to End Statelessness 2014-24: Action 7 • Council of Europe, 3rd European Conference on Nationality, 11-12 October 2004: Taken together Art 7 & 8 ECHR should be understood to encourage States Parties not only to take positive steps to avoid statelessness – including the promotion of birth registration – but also to grant citizenship to children who would otherwise be stateless and to foresee effective remedies for the child to challenge a decision (or lack of decision) by the state in this regard. 	No information available.	
PRS	6	b		Are there sections of the population believed to be unregistered? Please provide details and source of information.		Yes, part of the Roma population in the Netherlands are believed to be unregistered. The registration system is inadequate for this community, which results in individuals not being registered in the applicable municipality, partly due to absence of a legal residence permit.	Aanpak multi-problematiek bij gezinnen met een Roma-achtergrond (2013), p. 76: https://vng.nl/files/vng/nieuws_attachments/2013/20130315-roma-multiproblematiek.pdf (D)

Jurisprudence and Training

Cat	Q	Sub	Subtheme	Question	International Norms/Good Practice	Answer	Source
LIT	1	a	Published Judgements	Number of published judgements adjudicating statelessness (broken down by level of jurisdiction). Please list.		<p>131 published public judgements mention statelessness (<i>staatloosheid</i>):</p> <ul style="list-style-type: none"> • Court judgments (<i>rechtbanken</i>): 82 • Administrative district court Council of State (<i>Afdeling bestuursrechtspraak van de Raad van State (ABRvS)</i>): 30 • Central Board of Appeal (<i>Centrale Raad van Beroep</i>): 6 • Supreme court (<i>Hoge Raad</i>): 10 • <i>Gerechtshoven</i>: 3 	De Rechtspraak (Judiciary) website, search term <<staatloosheid>> (statelessness): https://uitspraken.rechtspraak.nl/#zoekverfijn/zt[0][zt]=staatloosheid&zt[0][fi]=AlleVelden&zt[0][ft]=Alle+velden&so=Relevance&ps[]=ps1
LIT	1	b		Number of published judgements mentioning statelessness (broken down by level of jurisdiction).		<p>431 published documents mention the word 'stateless' (<i>staatloos</i>):</p> <ul style="list-style-type: none"> • Court judgments (<i>rechtbanken</i>): 261 • Administrative district court Council of State (<i>Afdeling bestuursrechtspraak van de Raad van State (ABRvS)</i>): 114 • Central Board of Appeal (<i>Centrale Raad van Beroep</i>): 19 • Supreme court (<i>Hoge Raad</i>): 24 • <i>Gerechtshoven</i>: 13 	De Rechtspraak (Judiciary) website, search term <<staatloos>> (stateless): https://uitspraken.rechtspraak.nl/#zoekverfijn/zt[0][zt]=staatloos&zt[0][fi]=AlleVelden&zt[0][ft]=Alle+velden&so=Relevance&ps[]=ps1
LIT	2	a	Legal training	Is there judicial training on statelessness? If yes, please provide details (e.g. provider, frequency).	<ul style="list-style-type: none"> • UNHCR (Good Practices Paper 6): officials who may be in contact with stateless persons need to be trained to identify potential applicants for statelessness status and refer them to appropriate channels. • UNHCR Expert Meeting, Statelessness Determination Procedures and the Status of Stateless Persons 2010: It is recommended that States provide specialized training on nationality laws and practices, international standards and statelessness to officials responsible for making statelessness determinations. 	<p>See answer to IDP 11e and some further trainings are listed in the sources. We did not come across any specific judicial training. UNHCR recommended further targeted training in its mapping study.</p>	<p>Training delivered by ENS and Institute on Statelessness and Inclusion in Groningen and Tilburg, November 2016: http://www.stichtinglos.nl/agenda/trainingen-over-staatloosheid-nl-groningen-16nov-en-tilburg-25nov</p> <p>NJCM (Dutch Lawyers Committee for Human Rights) Seminar, June 2014: http://www.stichtinglos.nl/agenda/njcm-seminar-staatloosheid-nederland-11-juni-17-19u</p>

							<p>Humanity House Seminar, Nationality Unknown, December 2015: https://www.humanityhouse.org/agenda/nationaliteit-onbekend/</p> <p>UNCHR, 2011, Mapping statelessness in the Netherlands, p.62: http://www.refworld.org/docid/4ee65da2.html (E) and http://www.aoo.nl/downloads/2014-09-12-UN.pdf (D)</p>
LIT	2	b		<p>Is there training for lawyers on statelessness? If yes, please describe.</p>	<ul style="list-style-type: none"> • UNHCR Expert Meeting, Statelessness Determination Procedures and the Status of Stateless Persons 2010: as above 	<p>Yes, occasionally. For example, the Dutch Bar Association (NoVA) organised a training on nationality law for lawyers, judges and legal officers in Nov 2017, which included childhood statelessness and statelessness determination. The Institute on Statelessness and Inclusion, based at the University of Tilburg organises regular events, seminars and summer schools on statelessness. Tilburg University teaches statelessness in its law bachelor, and Maastricht University teaches it at LLM level. University of Amsterdam has previously offered a postgraduate course on statelessness.</p>	<p>Nederlandse orde Van Advocaten (Dutch Bar Association), Actualities in Nationality Law, 14 November 2017: https://cursusaanbod.advocatenorde.nl/33041/actualiteiten-nationaliteitsrecht/ (D)</p> <p>Institute on Statelessness and Inclusion: www.institutesi.org</p>
LIT	3	a	Pro Bono	<p>Are there specialised lawyers, law firms or organisations providing free advice to stateless persons or those at risk of statelessness? If yes, please describe.</p>	<ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: Applicants are to have access to legal counsel. • UNHCR (Good Practices Paper 6): Provides the example of Liverpool Law Clinic providing legal assistance to stateless clients in the UK. 	<p>Organisations include: PILP (Public Interest Litigation Project), Vluchtelingen in de Knel, ASKV, Stichting LOS and other support organisations.</p> <p>Multiple lawyers, but in particular Hamerslag & van Haren (Frank van Haren) and Prakken d'Oliveira.</p>	<p>PILP: https://pilpnjcm.nl/en/dossiers/statelessness/</p> <p>Vluchtelingen in de Knel: http://www.vluchtelingenindeknel.nl/</p> <p>ASKV Refugee Support: http://www.askv.nl/staatloosheid</p>

							<p>Hamerslag & van Haren: http://www.hvh-advocaten.nl/</p> <p>Prakken d'Oliveira: http://www.prakkendoliveira.nl/</p>
LIT	4	a	Literature	<p>Is there domestic legal academic literature on statelessness? If possible, please provide number of scholarly articles/references/bodies and hyperlinks etc.</p>		<p>There is a considerable amount of domestic legal academic literature (+50) on statelessness written in the Netherlands, but less academic work on statelessness in the Netherlands.</p>	<p>Katja Swider, 2014, Statelessness Determination in the Netherlands, Amsterdam Centre for European Law and Governance, Working Paper Series 2014 - 04: https://www.statelessness.eu/sites/www.statelessness.eu/files/attachments/resources/Statelessness%20Determination%20in%20the%20Netherlands%20Katja%20Swider.pdf</p> <p>Sangita Jaghai en Caia Vlieks, Buitenschuldbeleid schiet tekort in bescherming staatlozen, A&MR 2013: 5-6, pp. 287-292</p> <p>Katja Swider and Caia Vlieks, Discriminatie van staatloze kinderen zonder wettig verblijf, A&MR 2016: 4, pp. 168-174</p>