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International and Regional Instruments

Item	Subtheme	Question	International Norms & Good Practice	Answer	Source
IOB.1.a	1954 Convention	Is your country party to the 1954 Statelessness Convention?	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?		12/04/62	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 impact on the rights of stateless people.	<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>The Dutch Government confirms in its legislative proposal for an SDP laid before Parliament on 21 December 2020 that it will withdraw both reservations to the 1954 statelessness convention.</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 (NL))</p> <p>Legislative proposal for an SDP, Arts.8 & 9: https://www.internetconsultatie.nl/staatloosheid/details (NL)</p> <p>Tweede Kamer 'Wijziging van de Rijkswet op het Nederlanderschap en de Paspoortwet alsmede intrekking van voorbehouden bij het Verdrag betreffende de status van staatlozen in verband met de vaststelling van staatloosheid', 21 December 2020: https://www.tweedekamer.nl/kamers/tukken/wetsvoorstellen/detail?id=2020Z25636&dossier=35688-%28R2151%29</p>
IOB.1.d		Does the Convention have direct effect?	Best practice is that the Convention has direct effect, though this may depend on the 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
IOB.2.a	1961 Convention	Is your country party to the 1961 Statelessness Convention?	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?		13/05/85	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 the 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? Please list any reservations.	European Convention on Nationality, 1997	Yes, with reservations: · 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? Please list any relevant reservations.	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? Please list any reservations.	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
IOB.3.d		Bound by Directive 2008/115/EC of the European Parliament and of the Council (EU Returns Directive)? Please list any relevant	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

		reservations.			
IOB.3.e		State Party to Convention on the Rights of the Child 1989? Please list any relevant reservations.	Convention on the Rights of the Child 1989	<p>Yes, with reservations:</p> <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		State Party to International Covenant on Civil and Political Rights 1966? Please list any relevant reservations.	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 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. · 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 	Treaty Database: https://verdragenbank.overheid.nl/en/Treaty/Details/003721_b

				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		State Party to International Covenant on Economic, Social and Cultural Rights 1966? Please list any relevant reservations.	International Covenant on Economic, Social and Cultural Rights 1966	Yes, no current reservations (reservation to Art. 8(1)(NL) withdrawn in 2017).	Treaty Database: https://verdragenbank.overheid.nl/en/Treaty/Details/003723_b
IOB.3.h		State Party to Convention on the Elimination of all Forms of Discrimination Against Women 1979? Please list any relevant reservations.	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.	Yes, with the following declaration: · 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.	Treaty Database: https://verdragenbank.overheid.nl/en/Treaty/Details/000837_b
IOB.3.i		State Party to Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984? Please list any relevant reservations.	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984	Yes, with the following declarations: · 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.	Treaty Database: https://verdragenbank.overheid.nl/en/Treaty/Details/000176_b
IOB.3.j		State Party to International Convention on the Elimination of All Forms of Racial Discrimination 1966? Please list any relevant reservations.	International Convention on the Elimination of All Forms of Racial Discrimination 1965	Yes, with the following declaration: · 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.	Treaty Database: https://verdragenbank.overheid.nl/en/Treaty/Details/003657_b
IOB.3.k		State Party to the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families 1990? Please list any relevant reservations.	International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families 1990	No.	OCHR, status of ratification: http://indicators.ohchr.org/
IOB.3.l		State Party to the Convention on the Rights of Persons with Disabilities 2006? Please list any relevant reservations.	Convention on the Rights of Persons with Disabilities 2006	Yes, with the following reservation and declarations: - Article 10: The Kingdom of the Netherlands acknowledges that unborn human life is worthy of protection. The Kingdom of the Netherlands interprets the scope of Article	Treaty Database: https://verdragenbank.overheid.nl/en/Treaty/Details/011595_b

				<p>10, in line with the relevant case law of the European Court of Human Rights on this issue, to the effect that such protection - and thereby the term 'human being' - is a matter of national legislation.</p> <p>- Article 12: The Kingdom of the Netherlands recognizes that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life. Furthermore, the Kingdom of the Netherlands declares its understanding that the Convention allows for supported and substitute decision-making arrangements in appropriate circumstances and in accordance with the law. The Kingdom of the Netherlands interprets Article 12 as restricting substitute decision-making arrangements to cases where such measures are necessary, as a last resort and subject to safeguards.</p> <p>- Article 14: The Kingdom of the Netherlands recognizes that all persons with disabilities enjoy the right to liberty and security of person, and a right to respect for physical and mental integrity on an equal basis with others. Furthermore, the Kingdom of the Netherlands declares its understanding that the Convention allows for compulsory care or treatment of persons, including measures to treat mental illnesses, when circumstances render treatment of this kind necessary as a last resort, and the treatment is subject to legal safeguards.</p> <p>- Article 15: The Kingdom of the Netherlands declares that it will interpret the term 'consent' in article 15 in conformity with international instruments and national legislation which is in line with these instruments. This means that, as far as biomedical research is concerned, the term 'consent' applies to two different situations:</p> <ol style="list-style-type: none"> 1. Consent given by a person who is able to consent, and 2. In the case of persons who are not able to give their consent, permission given by their representative or an authority or body provided for by law. <p>The Kingdom of the Netherlands declares that it will interpret the term 'consent' in article 15 in conformity with international instruments and national legislation which is in line with these instruments. This means that, as far as biomedical research is concerned, the term 'consent' applies to two different situations:</p> <ol style="list-style-type: none"> 1. Consent given by a person who is able to consent, and 2. In the case of persons who are not able to give their consent, permission given by their representative or an authority or body provided for by law. <p>-Article 23: With regard to Article 23 paragraph 1(b), the Kingdom of the Netherlands declares that the best interests of the child shall be paramount.</p> <p>- Article 25: The Kingdom of the Netherlands interprets article 25 (a) to concern access to health care and the affordability of health care, and confirms that discrimination in such matters is not allowed. The Kingdom of the Netherlands considers it also important that health care professionals may determine which health care is provided based on medical grounds and its expected (in)effectiveness.</p> <p>The individual autonomy of the person is an important principle laid down in Article 3 (a) of the Convention. The Kingdom of the Netherlands understands Article 25 (f) in the light of this autonomy. This provision is interpreted to mean that good care involves respecting a person's wishes with regard to medical treatment, food and fluids, and that a decision to withhold any of these can also be based on medical grounds.</p> <p>- Article 29: The Kingdom of the Netherlands is fully committed to ensure the effective and</p>	
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				<p>full exercise by persons with disabilities of their right and opportunity to vote by secret ballot. It recognizes the importance of persons with disabilities to have, where necessary, at their request, assistance in voting. To safeguard voting by secret ballot without intimidation, as provided for in article 29 (a) (ii), and to ensure the principle of one vote per person, the Kingdom of the Netherlands declares that it will interpret the term 'assistance' in article 29 (a) (iii) as assistance only to be effected outside the voting booth, except with regard to assistance required due to a physical disability, in which case assistance may also be permitted inside the voting booth.</p>	
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Stateless Population Data

Item	Subtheme	Question	International Norms & Good Practice	Answer	Source
POP.1.a	Availability and sources	Does the Government have a 'stateless' category in its data collection systems (e.g. census)? Please list available figures for the total stateless population on the territory and describe how data is disaggregated (e.g. by sex, age, residence).	<p>Gen. Rec. 32, CEDAW: States parties should gather, analyse and make available sex-disaggregated statistical data and trends.</p> <p>Council of the European Union (2015): Recognise the importance of exchanging good practices among Member States concerning the collection of reliable data on stateless persons as well as the procedures for determining statelessness.</p> <p>UNHCR (2014): Improve quantitative and qualitative data on stateless populations.</p> <p>Institute on Statelessness and Inclusion (2014): States should strengthen measures to count stateless persons on their territory.</p>	<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. In 2019, the number of 'stateless / unknown nationality' reported by the Central Statistics Bureau was 55,621, which according to other sources would include 12,869 'stateless' persons and 42,752 persons of 'unknown nationality'.</p> <p>The number of people recorded by the Central Statistics Bureau as 'stateless / unknown nationality' on the territory on 1 January 2020 is 45,947.</p> <p>The Dutch Government updated its website to state that there are now more than 12,000 stateless persons and more than 40,000 persons with unknown nationality registered in the Basisregistratie Personen (BRP) – Dutch Population Register.</p> <p>An increase in the number of registered stateless persons in the Netherlands was reported by the Dutch media, based on unpublished data provided to them by the Central Office for Statistics (Centraal Bureau voor de Statistiek): on 1 January 2012 there were 2,005 persons factually stateless. On 1 January 2017 there were 12,477. The increase almost entirely consists of people born in Syria.</p>	<p>StatLine data by sex, age and nationality: https://opendata.cbs.nl/statline/#/CBS/nl/dataset/03743/table?fromstatweb</p> <p>StatLine data on number of nationalities people possess on the territory (stateless), 1995-2014: http://statline.cbs.nl/Statweb/publication/?DM=SLNL&PA=70999NED&D1=8&D2=a&HDR=T&STB=G1&CHARTYPE=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 (NL)</p> <p>EenVandaag article (NL): https://eenvandaag.avrotros.nl/item/aantal-staatlozen-in-nederland-neemt-toe/.</p> <p>Trouw Newspaper : https://www.trouw.nl/nieuws/gemeenten-willen-niet-langer-wachten-op-wetgeving-en-gaan-mensen-zonder-paspoort-zelf-helpen~b45cb795b/</p>
POP.1.b		Do government authorities define data categories that may overlap (e.g. unknown nationality) or where stateless people might be more highly represented (e.g. Palestinian)? Please explain and provide any available figures.	As above	<p>StatLine provides data on stateless persons or persons with unknown nationality on a yearly basis as of 1 January. In 2017 the total number of 'stateless' people or people with 'unknown nationality' was 69,778 and in 2018 it was 63,982. In 2019 this number was 55,621 and in 2020 45,947.</p> <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. In 2016, 5% of the total were made by stateless persons. In 2017, 120 first asylum requests were submitted by stateless persons and in 2018 (Jan-Aug) 26 requests were made.</p> <p>In 2019, 38 applications for asylum were made by people recorded as stateless. However, the IND mentions a separate category for 'Palestinian Occupied Territory' with a total of 40 asylum requests. There were also 870 asylum applications in 2019 by persons recorded with an 'unknown nationality'. The total number of asylum applications in 2019 was 22,533.</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</p> <p>StatLine data by population, gender, age and nationality on 1 January: https://opendata.cbs.nl/statline/#/CBS/nl/dataset/03743/table?fromstatweb</p> <p>CBS Data Asylum Requests: https://www.cbs.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 (NL)</p> <p>IND Asylum trends, August 2018: https://ind.nl/en/Documents/AT_august_2018_hoofdrapport.pdf, p. 10</p> <p>IND Asylum Trends, December 2019: https://ind.nl/Documents/AT_2019.pdf, p. 10</p>
POP.1.c		What is UNHCR's estimate for the stateless/at risk of statelessness population and what is the source for this estimate?	As above	According to the petition to end statelessness by UNHCR there are approximately 13,000 people registered as 'stateless' and 43,000 as 'unknown nationality'. UNHCR derives these figures from official statistics.	UNHCR, petition to end statelessness in NL: https://www.unhcr.org/nl/help-einde-maken-aan-staatloosheid-nederland/
POP.1.d		Have there been any surveys or mapping studies to estimate the stateless population in	As above	Yes.	UNCHR, 2011, Mapping statelessness in the Netherlands: http://www.refworld.org/docid/4eef65da2.html (E) and

		the country?			<p>http://www.aoo.nl/downloads/2014-09-12-UN.pdf (NL)</p> <p>Advisory Committee on Migration Affairs (ACVZ), 2013, Geen land te bekennen een advies over de verdragsrechtelijke bescherming van staatlozen in nederland, https://acvz.org/wp-content/uploads/2015/05/04-12-2013_GeenLandTeBekennen.pdf (NL) - summary in English pp.108-111)</p> <p>Immigration and Naturalisation Service (IND) Asielrends (asylum trends – latest from 2016): https://ind.nl/over-ind/Cijfers-publicaties/Paginas/Asielrends.aspx (NL)</p> <p>Vluchtelingenwerk (Dutch Refugee Council) report, 2016: https://www.vluchtelingenwerk.nl/sites/public/u895/Vluchtelingengetallen2016.pdf</p> <p>IND Asylum trends, August 2018: https://ind.nl/en/Documents/AT_august_2018_hoofdrapport.pdf, p. 10</p> <p>Dutch Refugee Council, 'Refugees in numbers', 2018: https://www.vluchtelingenwerk.nl/sites/default/files/u640/20180719_vluchtelingen_in_getallen_%202018_allerdefinitiefste.pdf (NL)</p> <p>Dutch Refugee Council, 'Refugees in numbers', 2019: https://www.vluchtelingenwerk.nl/sites/default/files/Vluchtelingenwerk/Cijfers/20190722_vwn_vluchtelingen_in_getallen.pdf</p> <p>Dutch Refugee Council, 'Refugees in numbers', 2020: https://www.vluchtelingenwerk.nl/sites/default/files/u36436/vluchtelingen_in_getallen_2020_v11.pdf</p>
POP.1.e		Are there any other sources of estimates for the stateless population not covered by the above? Please list sources and figures.	As above	<p>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.</p>	<p>Advisory Committee on Migration Affairs (ACVZ), 2013, Geen land te bekennen een advies over de verdragsrechtelijke bescherming van staatlozen in nederland, p.31: https://acvz.org/wp-content/uploads/2015/05/04-12-2013_GeenLandTeBekennen.pdf (NL)</p> <p>Overheid.nl (Dutch Government web portal), Draft Explanatory: Explanatory Memorandum statelessness determination procedure, p. 3 https://www.internetconsultatie.nl/staatloosheid</p>
POP.1.f		Are there issues with the reliability of data or indications that the stateless population may be over/under reported? If yes, please describe.	As above	<p>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. 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</p>	<p>Overheid.nl (Dutch Government web portal), Draft Explanatory: Explanatory Memorandum statelessness determination procedure, p. 3 https://www.internetconsultatie.nl/staatloosheid</p>

				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.g		Please provide any available figures for stateless refugees and/or asylum-seekers and clarify if the Government also counts these groups in figures for the stateless population (i.e. to avoid under/over-reporting).	As above	<p>The total number of asylum applications (first applications, repeated applications, family reunification) in 2016 was 31,642, of which 1,471 were stateless. In 2017, the total number was 31,327, of which 1,611 (5%) were stateless.</p> <p>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.</p> <p>In 2019, 38 applications for asylum were made by people recorded as stateless. However, the IND mentions a separate category for ‘Palestinian Occupied Territory’ with a total of 40 asylum requests. There were also 870 asylum applications in 2019 by persons recorded with an ‘unknown nationality’. The total number of asylum applications in 2019 was 22,533.</p> <p>Stateless people are in the top four ‘nationalities’ of people seeking family reunification in the Netherlands (142 of 4,179 between January and December 2019).</p> <p>According to figures of the Central Bureau of Statistics there were 65 asylum requests made by stateless persons in 2020, of which 35 were first time asylum requests. A further total of 625 asylum requests were made by persons recorded with ‘unknown nationality’. In addition, 130 stateless family members arrived on the territory in 2020.</p> <p>The Central Bureau of Statistics also specifies the number of stateless persons that obtained a residence permit for the first time, categorised by year and type of permit. For example, in 2019, 255 stateless persons obtained an asylum permit (in comparison, the total number of asylum permits obtained by stateless persons in 2015 was 4,390), 450 stateless persons obtained a residence permit on other grounds in 2019, and 370 stateless persons obtained a permit for family reunification in the same year.</p>	<p>Immigration and Naturalisation Service (IND), Asylum Trends: Monthly Report on Asylum Applications in The Netherlands, Dec. 2016: https://ind.nl/en/Documents/AT_Dece mber_2016.pdf</p> <p>Immigration and Naturalisation Service (IND), Asylum trends: Monthly Report on Asylum Applications in The Netherlands, Dec. 2017, p. 4: https://ind.nl/en/Documents/AT_Dece mber_2017.pdf</p> <p>Source: IND Asylum Trends, December 2019: https://ind.nl/Documents/AT_2019.pdf, p. 7 and 10</p> <p>CBS StatLine data; Asylum requests and following relatives; nationality, gender and age: https://opendata.cbs.nl/statline/#/CBS /nl/dataset/83102NED/table?ts=1606139040748</p> <p>CBS StatLine data; Residence permits for a definite period; residence ground and nationality: https://opendata.cbs.nl/statline/#/CBS /nl/dataset/82027NED/table?ts=1606139232856</p>
POP.2.a	Stateless in detention data	Does the Government record and publish figures on stateless people held in immigration detention? If yes, please provide.	As above and see also norms in Detention section.	<p>The presence of stateless persons in administrative detention must be inferred from general statistics because there is no determination procedure and no specific data on stateless persons in detention. The overall use of detention has fluctuated in recent years. In 2015 the number of people who entered detention was 2,176 - a decrease of 65% since 2011. The number slightly increased 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). The overall use of immigration detention again increased between 2016-17 with 3,181 people entering detention in 2017, of whom 3.7% were of ‘unknown nationality’.</p> <p>In 2018, a total number of 3,506 persons entered immigration detention. In 2019, this number amounted to 3,784 persons, with an average stay of 41 days, representing a year-on-year increase in immigration detention between 2015-2019.</p>	<p>(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</p> <p>(B) The Custodial Institutions Agency, July 2017, In numbers: 2012-2016, pp. 47-48: https://www.dji.nl/binaries/DJI%20in %20getal%202012-2016_tcm41-271319.pdf (NL)</p> <p>The Custodial Institutions Agency, August 2018, In numbers: 2013-2017, pp.49-55: https://www.dji.nl/binaries/DJI%20in %20getal%202013-2017%20definitief_tcm41-350484.pdf (NL)</p> <p>Amnesty International, Het recht op vrijheid vreemdelingendetentie: het ultimatum remedium-beginsel, Februari 2018: https://www.amnesty.nl/content/uploads/2018/02/AMN_18_08_Rapport-</p>

				<p>The most common nationalities of those detained in 2019 were Morocco (13%), Albania (11,4%), Algeria (10,6%), Nigeria (5,2%) and Gambia (3,5%). No further data is published by the government on statelessness or unknown nationality.</p>	<p>het-recht-op-vrijheid DEF web.pdf?x73404 (NL)</p> <p>The Custodial Institutions Agency, immigration detention, July 2020: https://www.dji.nl/binaries/70558-JenV_DJI_infosheet_vreemdelingenbewaring_v3_HR_tcm41-352274.pdf</p>
POP.2.b		<p>Does the Government record and publish figures on people released from immigration detention due to un-removability? If yes, please provide.</p>	<p>As above</p>	<p>There is no data available on individuals released from immigration detention who were un-removable.</p> <p>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 number of people released from detention in 2016 was 2,451 and in 2017 3,119. The average length of detention in 2016 and 2017 was 43 days. No specific data is known for the group of unknown nationality.</p> <p>In 2018, 3,506 persons entered immigration detention and 3,556 were released. In 2019, 3,784 persons entered immigration detention and 3,721 were released. In 2019, 90 persons remained in immigration detention for more than 6 months. A recent report by the National Ombudsperson mentions that in practice a (unspecified) number of immigrants are re-detained on a regular basis due to not cooperating or due to the country of origin refusing return of the individual.</p> <p>There is no further information published by the government on statelessness or un-removability.</p>	<p>The Custodial Institutions Agency, August 2018, In numbers: 2013-2017, pp.49-55: https://www.dji.nl/binaries/DJI%20in%20getal%202013-2017%20definitief_tcm41-350484.pdf (NL)</p> <p>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</p> <p>The Custodial Institutions Agency, April 2019: https://www.dji.nl/binaries/120687_01_dji_infosheet_vreemdelingenbewaring_april_2019_V3_tcm41-352274.pdf</p> <p>The Custodial Institutions Agency, immigration detention, July 2020: https://www.dji.nl/binaries/70558-JenV_DJI_infosheet_vreemdelingenbewaring_v3_HR_tcm41-352274.pdf</p> <p>Ministry of Justice and Security, ‘Rapportage Vreemdelingenketen Periode januari-december 2019’, April 2020, p. 46: https://www.rijksoverheid.nl/documenten/rapporten/2020/05/25/tk-bijlage-rapportage-vreemdelingenketen-2019</p> <p>National Ombudsman, ‘Grenzen aan Vreemdelingenbewaring’, 6 February 2020, p. 9: https://www.nationaleombudsman.nl/system/files/onderzoek/Rapport%202020-02%20Grenzen%20aan%20vreemdelingenbewaring.pdf</p>

Statelessness Determination and Status

Item	Subtheme	Question	International Norms & Good Practice	Answer	Source
SDS.1.a	Definition of a stateless person	Is there a definition of a stateless person in national law? Do the definition and exclusion provisions align with the 1954 Convention? Please provide details.	UN Convention Relating to the Status of Stateless Persons, 1954 : Articles 1(1) & 1(2).	The definition of a stateless person in Dutch law is slightly different from Art. 1(1) of the 1954 Convention: “een persoon die door geen enkele staat, krachtens diens wetgeving, als onderdaan wordt beschouwd” or “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 “krachtens diens wetgeving” or “under its legislation”, which is narrower than the Convention definition.	Rijkswet op het Nederlanderschap (Dutch nationality law), Article 1: https://wetten.overheid.nl/BWBR0003738/2018-08-01 (NL) Advisory Committee on Migration Affairs (ACVZ), 2013, Geen land te bekennen een advies over de verdragsrechtelijke bescherming van staatlozen in Nederland, p.43: https://acvz.org/wp-content/uploads/2015/05/04-12-2013_GeenLandTeBekennen.pdf (NL)
SDS.1.b	Training	Is there training to inform different government bodies about statelessness? If yes, please provide details (e.g. who provides training to whom/how often?)	UNHCR Executive Committee (2006) : Requests UNHCR to actively disseminate information and, where appropriate, train government counterparts on appropriate mechanisms for identifying, recording, and granting a status to stateless persons.	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 (see also SDS.1.c).	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%2BeSWGukSRCZF4gpw Cursus Staatloosheid in bestuurs-, nationaliteits- en vreemdelingenrecht, Eggen Instituut, Amsterdam, 12 March 2015: http://advocatenblad.nl/2015/01/08/de-agenda-voor-2015/ (NL) 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
SDS.1.c		Is there training for judges and lawyers on statelessness? If yes, please provide details (e.g. provider, frequency).	UNHCR (2016) : Officials who may be in contact with stateless persons need to be trained to identify potential applicants for stateless status and refer them to appropriate channels. UNHCR (2010) : It is recommended that States provide specialised training on nationality laws and practices, international standards and statelessness to officials responsible for making statelessness determinations.	ASKV organised a workshop on statelessness in December 2018 (Amsterdam) and June 2019 (Utrecht) in cooperation with, amongst others, the Institute on Statelessness & Inclusion and ENS, which were also attended by lawyers. Civil servants from various national and local governing bodies were also present.	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 NJCM (Dutch Lawyers Committee for Human Rights) Seminar, June 2014: http://www.stichtinglos.nl/agenda/njcm-seminar-staatloosheid-nederland-11-juni-17-19u Humanity House Seminar, Nationality Unknown, December 2015: https://www.humanityhouse.org/agenda/nationaliteit-onbekend/ UNCHR, 2011, Mapping statelessness in the Netherlands, p.62: http://www.refworld.org/docid/4eef65da2.html (E) and http://www.aoo.nl/downloads/2014-09-12-UN.pdf (NL) Nederlandse orde Van Advocaten (Dutch Bar Association), Actualities in Nationality Law, 14 November 2017: https://cursusaanbod.advocatenorde.nl/33041/actualiteiten-nationaliteitsrecht/ (NL) Institute on Statelessness and Inclusion: www.institutesi.org Workshop on statelessness, 4 June 2019, Utrecht: https://www.askv.nl/wp-content/uploads/2019/05/Staatloosheid-workshop-flyer-4-juni-2019.pdf

<p>SDS.1.d</p>	<p>Existence of a dedicated SDP</p>	<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, leading to a dedicated stateless status (proceed to Question 2a).</p> <p>2. There is no dedicated SDP leading to a dedicated stateless status, but there are other procedures in which statelessness can be identified (e.g. partial SDPs with no status/rights attached, residence permit or naturalisation applications, refugee status determination, ad hoc procedures, etc.), or other routes through which stateless people could regularise their stay and/or access their rights (proceed to Question 10a).</p> <p>3. There is a dedicated stateless status but no formal procedure for determining this (proceed to Question 16a).</p>	<p>UNHCR (2014) : It is implicit in the 1954 Convention that States must identify stateless persons to provide them appropriate treatment to comply with their Convention commitments. UNHCR (2016): Establishing a statelessness determination procedure is the most efficient means for States Parties to identify beneficiaries of the Convention.</p>	<p>#2</p>	<p>Statelessness page on website of the Government of the Netherlands: https://www.rijksoverheid.nl/onderwerpen/nederlandse-nationaliteit/inhoud/staatloosheid (NL)</p>
<p>SDS.10.a</p>	<p>Procedures in which statelessness can be identified and other routes to regularisation (Group 2)</p>	<p>If there is no dedicated SDP leading to a stateless status, are there any procedures in which statelessness can be identified (e.g. partial SDPs with no status/rights attached, residence permit or naturalisation applications, refugee status determination, ad hoc procedures, etc.)? If yes, please state the relevant procedures and then proceed to question 11a. If no, proceed to question 10b.</p>	<p>ENS (2013): For SDPs to be effective, the determination must be a specific objective of the mechanism in question, though not necessarily the only one. Hoti v. Croatia ECtHR (2018): [the State has a] positive obligation to provide an effective and accessible procedure or a combination of procedures enabling the applicant to have the issues of [their] further stay and status determined.</p>	<p>Yes. Persons residing legally in the Netherlands can be formally registered as stateless in the Basisregistratie Personen (BRP) (Population Register) of the relevant municipality. The BRP procedure is only a registration procedure, which records standard established data about a person. The procedure generally does not assess evidence on nationality beyond a standard passport or a straightforward rule of nationality law. Complexities or deviations from the familiar situations will result in registration of “nationality unknown”. Yet, the BRP registration procedure is the only procedure with significant legal implications for a stateless person.</p> <p>In addition to BRP registration, the IND also has a procedure to identify statelessness after which registration can take place in the Basisvoorziening Vreemdelingen (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.</p>	<p>Statelessness page on website of the Government of the Netherlands: https://www.rijksoverheid.nl/onderwerpen/nederlandse-nationaliteit/inhoud/staatloosheid (NL)</p> <p>Advisory Committee on Migration Affairs (ACVZ), 2013, Geen land te beknennen advies over de verdragsrechtelijke bescherming van staatlozen in nederland, p.50: https://acvz.org/wp-content/uploads/2015/05/04-12-2013_GeenLandTeBekennen.pdf (NL)</p> <p>Dutch Association for Civil Affairs, Frequently Asked Questions, see questions 5 and 18.: https://nvvb.nl/nl/over-ons/organisatie/adviesbureau/veelgestelde-vragen/</p> <p>Dutch Association for Civil Affairs, 2016, article 2.17 and statelessness: https://nvvb.nl/nl/nieuws/artikel-217-mededeling-en-staatloosheid/</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>

SDS.10.b		Are there any other routes through which stateless people could regularise their stay and/or access their rights without their statelessness being identified or determined? If yes, please describe these and then proceed to question 14a. If no, proceed to question 15a.	UN Convention Relating to the Status of Stateless Persons, 1954 UNHCR (2014) : It is implicit in the 1954 Convention that States must identify stateless persons to provide them appropriate treatment to comply with their Convention commitments.	No.	
SDS.11.a	Access to procedures (Group 2)	Please provide details on how statelessness may be identified in other procedures.	UNHCR (2016) : 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.	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 change 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. The rules for the registration of nationality in the BVV are not regulated by law, but there is an internal administrative protocol (Protocol Identificatie en Labeling (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. A legislative proposal for a formal SDP was published in September 2016 and is still due for discussion in Parliament. On 21 December 2020 the legislative proposal was sent to Parliament for discussion.	Wet Basisregistratie personen (BRP) (Law on the Population Register) of 2013: http://wetten.overheid.nl/BWBR0033715/2015-09-01 (NL) Protocol Identificatie en Labeling, Government of The Netherlands website: https://www.rijksoverheid.nl/documenten/richtlijnen/2017/07/04/protocol-identificatie-en-labeling-pil (NL) Dutch Association for Civil Affairs, Frequently Asked Questions, see questions 5 and 18.: https://nvvb.nl/nl/over-ons/organisatie/adviesbureau/veelgestelde-vragen/ Dutch Association for Civil Affairs, 2016, article 2.17 and statelessness: https://nvvb.nl/nl/nieuws/artikel-217-mededeling-en-staatloosheid/ 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 Proposal for an Act on the Determination of Statelessness, 2016: https://www.internetconsultatie.nl/staatloosheid ASKV & ENS, submission under the consultation process of a legislative proposal for an SDP (English), 27 November 2016: https://www.internetconsultatie.nl/staatloosheid/reactie/c31db4ca-9433-400c-9871-6fdd753046ca Tweede Kamer 'Wet vaststellingsprocedure staatloosheid', 21 December 2020: https://www.tweedekamer.nl/kamerstukken/wetsvoorstellen/detail?cfg=wetsvoorstel&qry=wetsvoorstel%3A35687
SDS.11.b		Are there obligations in law on authorities to consider a claim of statelessness made within another procedure?	UNHCR (2016) : Access to the procedure must be guaranteed.	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, Geen land te bekenneen advies over de verdragsrechtelijke bescherming van staatlozen in nederland, p.73: https://acvz.org/wp-content/uploads/2015/05/04-12-2013_GeenLandTeBekennen.pdf (NL)
SDS.11.c		Are there clear, accessible instructions for stateless people on how to claim their rights under the 1954 Convention and/or be identified as stateless?	UNHCR (2014) : For procedures to be fair and efficient, access must be ensured (dissemination of info, targeted info campaigns, counselling on the procedures, etc.). UNHCR (2016) : Information on the procedure and counselling services must be available to potential applicants in a language they	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	Advisory Committee on Migration Affairs (ACVZ), 2013, Geen land te bekenneen advies over de verdragsrechtelijke bescherming van staatlozen in nederland, p.73: https://acvz.org/wp-content/uploads/2015/05/04-12-2013_GeenLandTeBekennen.pdf (NL)

			<p>understand. UN Convention Relating to the Status of Stateless Persons, 1954</p>	<p>nationality/statelessness of the applicant. In practice it is seen that the various municipalities execute the procedure differently. No instructions or help is provided at first instance by the municipalities on how and when to ask for a statelessness registration.</p>	<p>Dutch Association for Civil Affairs, Frequently Asked Questions, see questions 5 and 18.: https://nvvb.nl/nl/over-ons/organisatie/adviesbureau/veelgestelde-vragen/</p>
SDS.11.d		<p>Is the examination and/or identification of statelessness conducted by a centralised body with relevant expertise? Please note the competent authority and evaluate appropriateness to national context.</p>	<p>UNHCR (2014) : States may choose between a centralised procedure or one that is conducted by local authorities. Centralised procedures are preferable as they are more likely to develop the necessary expertise. UNHCR (2016): It is important that examiners develop expertise while ensuring that the procedures are accessible.</p>	<p>It is conducted by a localised body (the municipality), and sometimes the IND. Preference is given to the identification of statelessness from local authorities to a centralised procedure in Court. This is why a legislative proposal for a centralised statelessness determination procedure was published in 2016 and is yet to be discussed in Parliament for further implementation. The proposal was sent to Parliament on 21 December 2020 for discussion.</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> <p>Tweede Kamer 'Wet vaststellingsprocedure staatloosheid', 21 December 2020: https://www.tweedekamer.nl/kamerstukken/wetsvoorstellen/detail?cfg=wetsvoorstel&qry=wetsvoorstel%3A35687</p>
SDS.11.e		<p>Is there cooperation between agencies that may have contact with stateless people?</p>	<p>UNHCR (2016): Cooperation between actors working on statelessness and the various government agencies involved in determining statelessness is good practice.</p>	<p>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> <p>UNHCR may also be involved bilaterally in cases with local authorities as well as with the IND.</p> <p>Additionally, municipalities are increasingly cooperating with other (non-governmental) actors to improve the registration of stateless persons on local level.</p>	<p>Wet Basisregistratie personen (BRP) (Law on the Population Register) of 2013: http://wetten.overheid.nl/BWBR0033715/2015-09-01 (NL)</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>ENS blog, 'Dutch municipalities take matters into their own hands while national government fails to provide solution for stateless people in the Netherlands', 16 October 2019: https://www.statelessness.eu/updates/blog/dutch-municipalities-take-matters-their-own-hands-while-national-government-fails</p>
SDS.12.a	Assessment (Group 2)	<p>Who has the burden of proof when determining or identifying statelessness (in law and practice)?</p>	<p>UNHCR (2014): The burden of proof is in principle shared (both applicant and examiner must cooperate to obtain evidence and establish the facts). UNHCR (2016): SDPs must take into consideration the difficulties inherent in proving statelessness. UNHCR Expert Meeting (2010): Individuals must cooperate to establish relevant facts. The burden should shift to the State if an individual can demonstrate they are not a national, on the basis of reasonably available evidence. Hoti v. Croatia ECtHR (2018): State has responsibility to at least share the burden of proof with the applicant when establishing the fact of statelessness.</p>	<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.</p> <p>2.17 Law BRP provides an opportunity for the municipality to obtain information regarding a person's nationality through a statement from the Minister of Security and Justice at the Dutch Immigration office (IND).</p>	<p>Wet Basisregistratie personen (BRP) (Law on the Population Register) of 2013: https://wetten.overheid.nl/BWBR0033715/2015-09-01 (NL)</p> <p>Dutch Association for Civil Affairs, Frequently Asked Questions, see questions 5 and 18.: https://nvvb.nl/nl/over-ons/organisatie/adviesbureau/veelgestelde-vragen/</p> <p>Katja Swider, 2014, Statelessness Determination in the Netherlands, 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), Dong vs. Het college van burgemeester en wethouders van de gemeente Utrecht, para. 6.</p> <p>Uitspraak Raad van State, 21 May 2014</p>

					(201302776/1/A3) para. 4.2-3: https://www.raadvanstate.nl/uitspraken/zoeken-in-uitspraken/tekst-uitspraak.html?id=79205 (NL)
SDS.12.b		What is the standard of proof to evidence statelessness?	UNHCR (2014) : States are advised to adopt the same standard of proof as in refugee status determination ('reasonable degree'). Inter-Parliamentary Union (2018) The standard of proof should be in keeping with the humanitarian objectives of statelessness status determination and the inherent difficulties of proving statelessness in the likely absence of documentary evidence. Hoti v. Croatia ECtHR (2018) : If statelessness is a relevant factor in the context of access to human rights, the standard of proof when determining the status of statelessness cannot be too high.	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 in first time asylum requests.	Wet Basisregistratie personen (BRP) (Law on the Population Register) of 2013, Article 2.44-6: http://wetten.overheid.nl/BWBR0033715/2015-09-01 (NL) Memorandum of Explanation of the Immigration Act 2000, Article 29, pp. 40-41: https://zoek.officielebekendmakingen.nl/kst-26732-3.html (NL) Article 31(1), Immigration Act 2000: http://wetten.overheid.nl/BWBR0011823/2017-07-01#Hoofdstuk3_Afdeling4_Paragraaf1_Artikel31 (NL)
SDS.12.c		Is there clear guidance for decision makers on how to identify or determine statelessness (including e.g. sources of evidence and procedures for evidence gathering, etc.)?	ENS (2013) : Determining authorities can benefit from concrete guidance that sets clear benchmarks and pathways for the establishment of material facts and circumstances.	Yes, civil servants in the municipalities make use of a special handbook called 'Handleiding Uitvoeringsprocedures' for registering persons in the BRP. Chapter 6.2 outlines specifics regarding an individual's nationality or statelessness. However, this handbook does not detail how to determine statelessness. 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. The IND has special instructions on how to identify and register stateless Palestinians. Municipalities do not use the same instructions and have their own much more formalistic registration policies.	Rijksdienst voor identiteitsgegevens, 'Handleiding Uitvoeringsprocedures', 4 October 2020: https://www.rvig.nl/brp/documenten/publicaties/2020/09/25/versie-3.4-handleiding-uitvoeringsprocedure-hup Advisory Committee on Migration Affairs (ACVZ), 2013, Geen land te bekenen een advies over de verdragsrechtelijke bescherming van staatlozen in nederland, pp. 71-73: https://acvz.org/wp-content/uploads/2015/05/04-12-2013_GeenLandTeBekennen.pdf (NL) Katja Swider, 2014, Statelessness Determination in the Netherlands, 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 IND work instruction regarding Palestinians, 11 December 2020: https://ind.nl/Documents/WI%202020-19.pdf NVVB, 'Palestinians from Syria stateless?': https://nvvb.nl/media/magazine-files/BR_1_STAATLOOS.pdf
SDS.13.a	Procedural safeguards (Group 2)	Is free legal aid available to stateless people?	UNHCR (2014) : Applicants should have access to legal counsel; where free legal assistance is available, it should be offered to applicants without financial means. ENS (2013) : If state funded legal aid is available, it should be provided to stateless claimants. If there is no state funded legal aid but asylum claimants can access free legal aid free of charge, the same level of access should be provided to stateless people.	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 Raad voor Rechtsbijstand (Council for Legal Aid) can request money for the procedure from the state.	Raad voor Rechtsbijstand website (Legal Aid Board in the Netherlands): http://www.rvr.org/english
SDS.13.b		Do stateless people always have an opportunity to claim their statelessness in an interview (whether the purpose of the interview is to identify statelessness or not?)	UNHCR (2014) : The right to an individual interview [is] essential.	There is no opportunity provided for a formal interview. To change a BRP registration to 'stateless', the individual needs to attend the 'Loket' (Desk) of the applicable Municipality in person and bring the necessary documents as proof. In most cases an appointment can be made in advance.	For example, information about BRP registration in the Municipality Apeldoorn: https://www.apeldoorn.nl/verzoek-wijzigen-gegevens (NL) (similar to other municipalities)
SDS.13.c		Is free interpreting available to stateless people?	UNHCR (2014) : The right to assistance with interpretation/translation [is] essential. ENS (2013) : Assistance should be available for translation and interpretation.	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.

SDS.13.d		Are decisions (refusals and grants) given in writing with reasons?	UNHCR (2014) : States are encouraged to incorporate the safeguard that 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%20onbekende%20gebdatum%20en%20nationaliteit%20MN.pdf (NL)
SDS.14.a	Protection (Group 2)	Are there any rights granted to stateless people on the basis of their statelessness? If yes, please provide details.	UNHCR (2014) : The status granted to a stateless person in a State Party must reflect 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.	Identification of a person as stateless does not result in permission to stay/legal status. Statelessness is merely a category in nationality records in Dutch law, not an immigration status or protection status. The current system for registering personal data (BRP) only registers those who already have a right to reside. Those who are registered as stateless in the BRP have access to a facilitated naturalisation procedure: after 3 years legal stay (instead of 5), exemption of foreign passport requirement and at lower cost. The legislative proposal for an SDP sent to Parliament on 21 December 2020 for discussion is not intending to provide any residency rights upon determination of statelessness under the new SDP procedure.	Statelessness page, Government of the Netherlands website: https://www.rijksoverheid.nl/onderwerpen/nederlandse-nationaliteit/inhoud/staatloosheid (NL) Rechtbank Den Haag, 19 February 2014 (SGR 12/2490): statelessness does not lead to issuing of identity documents. Tweede Kamer ‘Wet vaststellingsprocedure staatloosheid’, 21 December 2020: https://www.tweedekamer.nl/kamerstukken/wetsvoorstellen/detail?cfg=wetsvoorstel&qry=wetsvoorstel%3A35687 (explanatory memorandum p. 3)
SDS.14.b		Are stateless people otherwise able to access their rights under the 1954 Convention? (e.g. right to reside, travel document, work, healthcare, social security, education, housing, family reunification, right to vote, etc.)? Please provide details.	UN Convention Relating to the Status of Stateless Persons, 1954 UNHCR (2014) : The status granted to a stateless person in a State Party must reflect international standards. It is recommended that States grant recognised stateless people a residence permit valid for at least two years, although longer permits, such as five years, are preferable in the interests of stability. Permits should be renewable.	If a legally residing 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 has (if legally residing) access to the right of option to Dutch nationality if born in the Netherlands after 3 years of uninterrupted legal residence. The legislative proposal for an SDP of 2016 is intending to extend the right to opt for Dutch nationality to stateless children born in the Netherlands without legal residence. However, they would have to wait 5 years instead of the usual 3 years and they would be required to have had ‘stable residence’, meaning the parents should have always cooperated fully with national authorities. In the most recent legislative proposal for an SDP sent to Parliament on 21 December 2020 these conditions have been changed. A stateless child born in the Netherlands without legal residence would now have to wait 10 years before it can submit an application for Dutch nationality, of which at least five uninterrupted years immediately prior to the declaration. Besides the cooperation requirement for the parents, it must be established that the child’s statelessness cannot be lifted by the parents. Stateless persons without a residence document do not have access to the above, nor do they have access to the right to work, social security, social housing, education (except for minors), right to vote and family reunification (unlike legal residents, including legally residing stateless persons). All persons without legal residence, including stateless persons, have access to essential healthcare. Were the 1954 Convention to be applied directly, there is also a right to identity documents (under article 27) for persons without a residence document, however stateless persons without legal residence are currently not able to enforce that right in court and no competent authority is appointed to issue these identity documents. The legislative proposal for an SDP sent to Parliament in December 2020 introduced the right to an identity card upon statelessness determination. The identity card will specify that the person concerned is an established stateless person. It will be explicitly mentioned on the identity card that this does not entail any residency rights.	Statelessness page, Government of the Netherlands website: https://www.rijksoverheid.nl/onderwerpen/nederlandse-nationaliteit/inhoud/staatloosheid (NL) Rechtbank Den Haag, 19 February 2014 (SGR 12/2490): statelessness does not lead to issuing of identity documents. Tweede Kamer ‘Wijziging van de Rijkswet op het Nederlanderschap en de Paspoortwet alsmede intrekking van voorbeholden bij het Verdrag betreffende de status van staatlozen in verband met de vaststelling van staatloosheid’, 21 December 2020: https://www.tweedekamer.nl/kamerstukken/wetsvoorstellen/detail?id=2020Z25636&dossier=35688-%28R2151%29 Tweede Kamer ‘Wet vaststellingsprocedure staatloosheid’, 21 December 2020: https://www.tweedekamer.nl/kamerstukken/wetsvoorstellen/detail?cfg=wetsvoorstel&qry=wetsvoorstel%3A35687 (for requirements relating to the right to opt for Dutch nationality for stateless children without legal residence see p. 4 of the explanatory memorandum. For information regarding the right to an identity card see p. 28-29 of the explanatory memorandum)

<p>SDS.15.a</p>	<p>Access to nationality (Group 2)</p>	<p>In what timeframe do stateless people acquire the right to apply for naturalisation and how does this compare to others with a foreign nationality? Please describe the procedure and note whether this is facilitated for stateless people (e.g. exemption from nationality/language tests, fee waiver).</p>	<p>UN Convention Relating to the Status of Stateless Persons, 1954: Article 32 UNHCR (2016): It is recommended that States Parties facilitate, as far as possible, the naturalisation of stateless persons. Council of Europe Committee of Ministers (1999): Each State should facilitate the acquisition of its nationality by stateless persons lawfully and habitually resident on its territory. ENS (2013): The main benchmark is if there is any preferential treatment for stateless people compared to the general rules applied to those with a foreign nationality.</p>	<p>Stateless persons not born in the Netherlands can request Dutch nationality after 3 years of legal stay instead of the normal 5 years for others with a foreign nationality. Stateless persons are exempt from providing a passport but have to provide a birth certificate. Naturalisation costs for stateless persons are reduced to 688 EUR (in 2021) (instead of 925 EUR).</p> <p>There are no exemptions for the language tests particularly for stateless persons. All children are exempt from the language test.</p> <p>It is currently impossible to acquire Dutch nationality for parents of Dutch children, who derive their right of residence from Article 20 of the Treaty on the Functioning of the European Union, based on the ruling of the European Court of Justice in the cases Zambrano and Chavez-Vilchez. (Stateless) persons that obtain this permit to care for their child cannot naturalise as the Dutch Government categorises this permit as temporary and may be withdrawn when the child turns 18.</p> <p>Stateless persons and children born in the Netherlands can become Dutch nationals through the option procedure after 3 years of legal residence. They are exempt from providing a passport but do have to provide a birth certificate. There is no language test requirement. There is no special fee for stateless persons, but the option procedure is considerably cheaper than the regular naturalisation procedure (196 EUR in 2021).</p>	<p>IND, Naturalisation: https://ind.nl/en/dutch-citizenship/Pages/Naturalisation.aspx</p> <p>IND, Option: https://ind.nl/en/dutch-citizenship/Pages/Option.aspx</p> <p>Everaert Advocaten, naturalisation with a Chavez-Vilchez permit, 2019: https://www.everaert.nl/en/news/44-nieuws-particulieren-en/989-naturalization-not-with-a-chavez-vilchez-residence-permit</p> <p>Everaert Advocaten, 'UPDATE: Is it possible to obtain Dutch citizenship with a Chavez residence permit?', 17 April 2020: https://www.everaert.nl/en/news/58-nieuws-nationaliteit-en/1109-update-is-it-possible-to-obtain-dutch-citizenship-with-a-chavez-residence-permit</p>
<p>SDS.15.b</p>		<p>Are there requirements relating to 'good character' or previous criminal convictions that could prevent some stateless people from accessing nationality? If yes, please describe. [Section complete, proceed to DET]</p>	<p>Council of Europe Committee of Ministers (1999): States should ensure that offences, when relevant for the decision concerning the acquisition of nationality, do not unreasonably prevent stateless persons seeking the nationality of a state.</p>	<p>Yes. The person may not be a threat to the public order or national security of the Kingdom of the Netherlands. The IND will not process the application for naturalisation or option when one or more of the following situations apply:</p> <ul style="list-style-type: none"> - The person is suspected of a crime and could receive a sentence for this. - The person has been convicted of a crime in the 5 years before the application for naturalisation or the option statement (or the related decision). - The person is suspected of or has been convicted of crimes under Article 1F Refugee Convention. - The person is in a polygamous marriage. <p>Additionally, Dutch nationality may be revoked if the person withholds relevant information.</p>	<p>IND, Public order policy for procedures to become a Dutch citizen: https://ind.nl/en/Pages/Public-order-policy-naturalisation.aspx</p>

Detention

Item	Subtheme	Question	International Norms & Good Practice	Answer	Source
DET.1.a	Detention screening	Are immigration detention powers provided for in law? Please provide the legal source(s).	ICCPR Article 9(1) ECHR Article 5 (1)	Yes.	Chapter 5, Article 59(1), Vreemdelingenwet 2000: https://wetten.overheid.nl/BWBR0011823/2020-05-14#Hoofdstuk5 (NL)
DET.1.b		Does domestic law allow immigration detention for purposes other than those listed under ECHR 5(1)(f)?	ECHR Article 5(1)(f)	A foreign national may be detained on the grounds of public order or national security, where there exists: a. risk that they will withdraw from supervision, or b. evade or impede preparation of departure or the expulsion procedure. An exhaustive list of further criteria is specified in the Immigration 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 and nationality; presenting wrong or contradicting information; deliberately destroying travel or identity documents; presenting fraudulent documents; having been declared an ‘undesirable foreigner’; 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.	Chapter 5, Article 59(1), Vreemdelingenwet 2000: https://wetten.overheid.nl/BWBR0011823/2020-05-14#Hoofdstuk5 (NL) Chapter 5, Article 5.1a & 5.1b, Vreemdelingenbesluit 2000: https://wetten.overheid.nl/BWBR0011825/2020-08-01#Hoofdstuk5 (NL) ENS/ASKV (2015), Protecting Stateless Persons from Arbitrary Detention in the Netherlands, p. 18: http://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_Netherlands.pdf
DET.1.c		Does a proposed country of removal need to be identified before a person is detained for removal? Please describe the situation in law and in practice.	ICCPR Article 7 : Repeated attempts to expel a person to a country that refuses to admit them could amount to inhuman or degrading treatment. Auad v Bulgaria ECtHR (2011) : The only issue is whether the authorities were sufficiently diligent in their efforts to deport the applicant. EU Returns Directive : Any detention shall only be maintained as long as removal arrangements are in progress and executed with due diligence.	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 handover to another EU country; the need for additional inquiry into a person’s identity or nationality is considered a valid reason to detain. Having said this, detention for additional inquiry into a person’s identity or nationality is described as being for persons who are legally staying in the country for the purpose of their request for a permit (Art.59b.1a). Meanwhile, ‘no or insufficient cooperation with establishing identity and nationality’ is named as one possible ground for detention of a foreigner (at least two grounds are necessary for detention to be authorised) (Art.5.1b, 3d).	Chapter 5, Vreemdelingenwet 2000: https://wetten.overheid.nl/BWBR0011823/2020-05-14#Hoofdstuk5 (NL) ENS/ASKV (2015), Protecting Stateless Persons from Arbitrary Detention in the Netherlands, pp. 13, 17-19: http://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_Netherlands.pdf
DET.1.d		Is statelessness juridically relevant in decisions to detain? Please describe how (risk of) statelessness is identified and whether referral to an SDP is possible from detention.	Auad v Bulgaria ECtHR (2011) Mikolenko v. Estonia ECtHR (2009) : Detention may only be justified as long as deportation proceedings are being conducted with due diligence. UNHCR (2014) : Routine detention of individuals seeking protection on the grounds of statelessness is arbitrary. Equal Rights Trust (2012) : 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 (2014) : The detention of stateless persons can never be justified when there is no active or realistic progress towards transfer to another State.	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 Immigration Act demands the cooperation of every person with irregular migration status, stateless or otherwise. Referral to an SDP is not possible as there is no SDP currently in place.	ENS/ASKV (2015), Protecting Stateless Persons from Arbitrary Detention in the Netherlands, p. 18: http://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_Netherlands.pdf
DET.1.e		Are stateless people detained in practice?		Yes, but this has to be inferred from general statistics because of the lack of a statelessness determination procedure and data on stateless persons in detention.	ENS/ASKV (2015), Protecting Stateless Persons from Arbitrary Detention in the Netherlands, p. 14: http://www.statelessness.eu/sites/www

				<p>The overall use of immigration detention has fluctuated 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; and again, in the year to 2017. 3,181 people entered detention in 2017, 3.7% of whom were recorded as having ‘unknown nationality’. 3,119 people were released from detention in 2017 and the average length of detention was 43 days. In 2018, 3.506 persons entered immigration detention and 3.556 were released from it. In 2019, 3,784 persons entered immigration detention and 3,721 were released. In 2019, 90 persons remained in immigration detention for more than 6 months. A recent report by the National Ombudsperson mentions that in practice a (unspecified) number of immigrants are re-detained on a regular basis due to not cooperating or due to the country of origin refusing return of the individual. There is no further information on stateless persons published in government data.</p>	<p>w.statelessness.eu/files/ENS_Detention_Reports_Netherlands.pdf</p> <p>Dienst Justitiële Inrichtingen (Custodial Institutions Agency), 2017. ‘DJI in numbers : 2012-2016’: https://www.dji.nl/themas-cijfers-en-publicaties/cijfers-en-publicaties/kerncijfers-dji.aspx (NL)</p> <p>Dienst Justitiële Inrichtingen (Custodial Institutions Agency), 2018, In numbers: 2013-2017, pp.49-55 https://www.dji.nl/binaries/DJI%20in%20getal%202013-2017%20definitief_tcm41-350484.pdf</p> <p>The Custodial Institutions Agency, April 2019: https://www.dji.nl/binaries/120687_01_dji_infosheet_vreemdelingenbewaring_april_2019_V3_tcm41-352274.pdf</p>
DET.1.f		Does law (and/or policy) provide that immigration detention should be used only as a last resort, after all alternatives have been exhausted in each individual case?	<p>UNHCR (2014): Detention is a measure of last resort and can only be justified where other less invasive or coercive measures have been considered and found insufficient.</p> <p>EU Returns Directive: Article 15(1)</p>	<p>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.</p>	<p>The Government of the Netherlands website, Immigration Detention: https://www.rijksoverheid.nl/onderwerpen/terugkeer-vreemdelingen/inhoud/vreemdelingenbewaring (NL)</p> <p>Custodial Institutions Agency, Government of the Netherlands website, Wie zitten er in vreemdelingenbewaring? (Who is in immigration detention?): https://www.dji.nl/justitiabelen/vreemdelingen_in_bewaring/dji-wie-in-bewaring.aspx (NL)</p> <p>Article 59(c)(1), Vreemdelingenwet 2000: https://wetten.overheid.nl/BWBR0011823/2020-05-14#Hoofdstuk5 (NL)</p>
DET.1.g		Are individual vulnerability assessments carried out before a decision to detain (or soon after)? Please note whether statelessness is considered to be a factor increasing vulnerability.	<p>ENS (2015): Arbitrary and disproportionately lengthy detention can ensue when the particular vulnerabilities of stateless people are not addressed.</p> <p>EU Returns Directive: Article 16(3)</p> <p>EU Returns Handbook (2017): Attention should be paid to the specific situation of stateless persons.</p> <p>Council of the European Union (2013): European entities should assess the situation of LGBTI persons in detention.</p>	<p>No, not yet. According to the new Law on Return & Immigration Detention, more attention should be paid to vulnerability with regard to detention. However, there are no concrete improvements laid down in the new law, and the term vulnerability is not defined.</p>	<p>Erste Kamer der Staten-Generaal (Senate), Wet terugkeer en vreemdelingenbewaring (Law on return and immigration detention), https://www.eerstekamer.nl/wetsvoorstel/34309_wet_terugkeer_en (NL)</p>
DET.2.a	Alternatives to detention	Are alternatives to detention established in law and considered prior to any decision to detain?	<p>ICCPR Article 9</p> <p>FKAG v Australia HRC (2013): Any decision relating to detention must consider less invasive means of achieving the same ends.</p> <p>UN General Assembly (2009): Calls upon all States to adopt alternative measures to detention.</p> <p>UNHCR (2014): Detention can only be justified where other less invasive or coercive measures have been considered and found insufficient.</p> <p>Human Rights Council (2012) : The obligation to always consider alternatives before resorting to detention should be established by law.</p> <p>EU Returns Directive: Article 15(1)</p> <p>Equal Rights Trust (2012): States have an obligation to consider and apply appropriate and viable alternatives to immigration detention that are less coercive and intrusive.</p> <p>International Detention Coalition (2015) : 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.</p>	<p>Currently the only provision is in the Immigration Act Implementation Guidelines [vreemdelingencircular] which state that “the foreigner’s file must demonstrate that the official charged with border monitoring or supervision of foreigners has properly weighed interests before imposing detention”. The current available alternatives to detention are:</p> <ol style="list-style-type: none"> Notice to leave the Netherlands (administrative formality, usually applied when (forced) return is impossible) A reporting duty combined with intensive DT&V case Management A bail system to prevent people from absconding Confiscating documents - often combined with reporting duty. Usually applied for people who cooperate with return. Freedom-restricting measures for people who cooperate with return. ‘Airport lounge’ alternative to border detention for people who independently prepare to return. <p>The new Law on Return & Immigration Detention was passed by the House of Representatives (Tweede Kamer) on 19 June</p>	<p>ENS/ASKV (2015), Protecting Stateless Persons from Arbitrary Detention in the Netherlands, p. 13 & 22: http://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_Netherlands.pdf</p> <p>Erste Kamer der Staten-Generaal (Senate), Wet terugkeer en vreemdelingenbewaring (Law on return and immigration detention), https://www.eerstekamer.nl/wetsvoorstel/34309_wet_terugkeer_en (NL)</p> <p>Amendment Law on return and immigration detention ‘measures with regard to nuisance aliens’, 20 June 2020: https://www.eerstekamer.nl/wetsvoorstel/35501_nouvelle_maatregelen_ten</p> <p>Amnesty International, ‘Use of isolation in immigration detention has increased sharply’, 7 September 2020: https://www.amnesty.nl/actueel/gebruik-isolatie-in-vreemdelingendetentie-sterk-toegenomen</p> <p>National Ombudsperson, ‘New bill</p>

				<p>2018 and is now going through the Senate (Eerste Kamer). However, the announced reforms do not clearly specify how this duty to consider alternatives is to be guaranteed in individual cases. As of November 2020, the new Law on Return & Immigration Detention is still with the Senate pending approval.</p> <p>A new amendment (novelle) to the proposed Law on Return & Immigration Detention has been submitted by the government on 20 June 2020. This amendment considers “maintaining possibilities to take measures against aliens that cause nuisance”. Amnesty International has expressed additional concern about the proposed law and amendment, specifically regarding isolation measures. The proposed law expands the possibilities for isolation, with asylum seekers in border detention being able to be placed in isolation for punishment. In addition, minors (12-18 years) can still be isolated under the new law. The latest proposals from the Secretary of State make it possible to lock people collectively in their cells for up to four weeks, for 23 hours a day, which amounts to isolation. The director may decide to do so in case of serious order and security problems. People who were not involved in the unrest can also be included. The National Ombudsperson has also expressed criticism, stating that the proposed measures do not do justice to the administrative nature that immigration detention must have, in which residents should be in an environment with as few restrictions as possible. Alternatively, the Ombudsperson mentions possible changes to the regime that contribute to limiting tensions and incidents in immigration detention as opposed to strict new measures as mentioned in the new amendment by the government.</p>	<p>offers no solution for nuisance in immigration detention’, 26 August 2020: https://www.nationaleombudsman.nl/nieuws/2020/nieuw-wetsvoorstel-biedt-geen-oplossing-voor-overlast-in-vreemdelingenbewaring</p>
DET.2.b		Is there evidence that immigration detention is used in practice prior to all alternatives being considered?	As above.	In practice, immigration detention is not only used as a last resort. Often it is applied too frequently and for too long.	<p>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 (NL)</p> <p>Opmerkingen en aanbevelingen van Amnesty International bij de Wet Terugkeer en Vreemdelingenbewaring, 2018: https://www.amnesty.nl/content/uploads/2018/06/Amnesty-International-Wet-Terugkeer-en-Vreemdelingenbewaring-6-juni-2018.pdf?x93008 (NL)</p>
DET.3.a	Procedural safeguards	Is there a maximum time period for immigration detention set in law? What is it?	<p>UN Human Rights Council (2010) : A maximum period of detention must be established by law and upon expiry the detainee must be automatically released.</p> <p>UNHCR (2012) : To guard against arbitrariness, maximum periods of detention should be set in national law.</p> <p>EU Returns Directive: Article 15(5)</p> <p>Equal Rights Trust (2012) : Detention should always be for the shortest time possible.</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).	Article 59, Vreemdelingenwet 2000: https://wetten.overheid.nl/BWBR0011823/2020-05-14#Hoofdstuk5 (NL)
DET.3.b		Does law/policy provide that individuals must be informed in writing of the reasons for their immigration detention?	<p>UN General Assembly (1988) : Anyone who is arrested shall be informed at the time of the reason for his arrest.</p> <p>EU Returns Directive: Detention shall be ordered in writing with reasons being given in fact and in law.</p> <p>Equal Rights Trust (2012) : Stateless detainees shall receive their order of detention in writing and in a language they understand.</p> <p>International Commission of Jurists (2014): The authorities shall ensure that sufficient information is available</p>	Yes.	Article 5.3(1), Vreemdelingenbesluit 2000: https://wetten.overheid.nl/BWBR0011825/2020-08-01#Hoofdstuk5 (NL)

			to detained persons in a language they understand on the nature of their detention and reasons for it.		
DET.3.c		Are detainees provided with information on their rights, contact details of legal advice and support providers, and guidance on how to access an SDP?	Equal Rights Trust (2012) : Detaining authorities are urged to provide stateless detainees with a handbook in a language and terms they understand, containing information on all their rights and entitlements, contact details of organisations which are mandated to protect them, NGOs and visiting groups and advice on how to challenge the legality of their detention and their treatment as detainees.	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: https://wetten.overheid.nl/BWBR0011825/2020-08-01#Hoofdstuk5 (NL)
DET.3.d		Are there regular periodic reviews of detention before a court or independent body, which can order release?	Kim v Russia ECtHR (2014) : The purpose of Article 5(4) ECHR is to guarantee to persons who are detained the right to judicial supervision of the lawfulness of the measure. Equal Rights Trust (ERT) (2012) : 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.	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.	ENS/ASKV (2015), Protecting Stateless Persons from Arbitrary Detention in the Netherlands, pp. 17-18: http://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_Netherlands.pdf
DET.3.e		What remedies are available to challenge detention? Please mention any obstacles to accessing effective remedies in practice.	ICCPR Article 9(4) ECHR: Article 5(4) Kim v Russia ECtHR (2014) : The purpose of Article 5(4) ECHR is to guarantee to persons who are detained the right to judicial supervision of the lawfulness of the measure. Alimuradov v. Russia ECtHR (2019) : The individual must have at their disposal a procedure for judicial review of the lawfulness of detention capable of leading to release.	The decision by the court to detain can be appealed by the individual. In addition, detainees can ask a judge to re-examine the lawfulness of their detention at any time, for instance checking the continued prospect of removal. Higher appeal against the appeal decision is possible by both the detainee and the IND.	ENS/ASKV (2015), Protecting Stateless Persons from Arbitrary Detention in the Netherlands, pp. 17-18: http://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_Netherlands.pdf Article 94, Vreemdelingenwet 2000: https://wetten.overheid.nl/BWBR0011823/2020-05-14#Hoofdstuk7 (NL) (challenging enforcement of detention) Article 96, Vreemdelingenwet 2000: https://wetten.overheid.nl/BWBR0011823/2020-05-14#Hoofdstuk7 (NL) (subsequent remedy) De Rechtspraak, Procedure vreemdelingenbewaring (Immigration detention procedure): https://www.rechtspraak.nl/Uw-Situatie/Vreemdelingenbewaring/Paginas/procedure.aspx#tabs (NL)
DET.3.f		Are there guidelines in place governing the process of re-documentation and ascertaining entitlement to nationality for the purpose of removal?	Equal Rights Trust (2012) : The inability of a stateless person to cooperate with removal proceedings should not be treated as non-cooperation. ENS (2015) : The detaining state should have rules in place that govern the process of re-documentation and/ or ascertaining entitlement to nationality.	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 matters involved in re-documentation. They are obliged to provide 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	ENS/ASKV (2015), Protecting Stateless Persons from Arbitrary Detention in the Netherlands, pp. 12, 20-22: http://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_Netherlands.pdf

				uncertainty about the applicant’s identity and nationality.	
DET.3.g		Is free legal aid available to challenge detention? Please describe any barriers to accessing legal aid in practice.	UNHCR (2014) : Judicial oversight of detention is always necessary and detained individuals need to have access to legal representation, including free counselling for those without means. EU Returns Directive : Article 13(3)	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 assigned on detention. In practice, there are reports from people in detention that mention communication difficulties due to people not having credit to call their lawyer from detention, lack of interpreters, or lack of knowledge of detention law among asylum lawyers.	Article 5.3(1), Vreemdelingenbesluit 2000: https://wetten.overheid.nl/BWBR0011825/2020-08-01#Hoofdstuk5 (NL) Website of the Raad voor Rechtsbijstand (Legal Aid Board in the Netherlands): http://www.rvr.org/english Website of the Judiciary of the Netherlands: https://www.rechtspraak.nl/Uw-Situatie/Onderwerpen/Vreemdelingenbewaring/Paginas/procedure.aspx#ad340537-dbf5-4957-9095-8ee4159993130 (NL) Information provided by Meldpunt Vreemdelingendetentie (Immigration Detention Hotline): http://meldpuntvreemdelingendetentie.nl/ (NL)
DET.4.a	Protections on release	Are people released from detention issued with identification documents (including confirmation of their stateless status) and protected from re-detention?	UN Convention Relating to the Status of Stateless Persons, 1954 : Article 27 UNHCR (2014) : Being undocumented cannot be used as a general justification for detention. ENS (2015) : State parties to the 1954 Convention have an obligation to provide stay rights to stateless people who have been released from detention. Equal Rights Trust (2012) : Released stateless detainees should be provided with appropriate documentation and stay rights suitable to their situation.	No. After release, re-detention is possible immediately if circumstances have changed that justify the re-detention.	Article 5/6.7, Vreemdelingencirculaire 2000: https://wetten.overheid.nl/BWBR0012287/2020-10-01#Circulaire.divisieA5 (NL)
DET.4.b		If the purpose of detention cannot be fulfilled and the person is released, what legal status and rights are provided to them in law?	Saïd Shamilovich Kadzoev v Direktsia Migratsia’ pri Ministerstvo na vatreshnite raboti ECJ (2009) : After the maximum period of detention has expired, the person must be released immediately. A lack of valid documentation or inability to support themselves should not be a deterrent to release. Equal Rights Trust (2012) : Released stateless detainees should be provided with appropriate documentation and stay rights suitable to their situation.	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.	ENS/ASKV (2015), Protecting Stateless Persons from Arbitrary Detention in the Netherlands, pp. 25, 27: http://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_Netherlands.pdf
DET.4.c		If re-detention occurs, is the cumulative time spent in detention counted towards any maximum time limits?	Equal Rights Trust (2012) : When calculating the total time spent by an individual in detention, it is highly desirable that time spent in detention on previous occasions is taken into consideration.	No, even though time limits exist for each individual detention period, the practice of re-detention in the Netherlands makes the total detention duration theoretically limitless.	ENS/ASKV (2015), Protecting Stateless Persons from Arbitrary Detention in the Netherlands, p. 25: http://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_Netherlands.pdf
DET.5.a	Return and readmission agreements	Is statelessness considered a juridically relevant fact in any bilateral readmission and/or return agreements?	UNHCR (2014) : Efforts to secure admission or readmission may be justified but these need to take place subsequent to a determination of statelessness.	Most bilateral return agreements with countries of origin include a clause on readmitting former residents who are (presumed) stateless.	ENS/ASKV (2015), Protecting Stateless Persons from Arbitrary Detention in the Netherlands, p. 18: http://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_Netherlands.pdf
DET.5.b		Are you aware of cases of cases of stateless people being returned under such agreements?		There have been cases of people with disputed/unknown nationality returned under such agreements, including to Guinea and DRC (but not officially recognised stateless persons).	ASKV casework/practice.

Prevention and Reduction

Item	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 to PRS1b. If no, proceed to PRS1h]	UN Convention on the Reduction of Statelessness, 1961 : Article 1 European Convention on Nationality, 1997 : Article 2 Convention on the Rights of the Child 1989 : Article 7 Committee on the Rights of Migrant Workers and Members of their Families & Committee on the Rights of the Child (2017) : States should strengthen measures to grant nationality to children born in their territory in situations where they would otherwise be stateless. European Parliament (2018) : The EU and its MS should ensure that childhood statelessness is adequately addressed in national laws in full compliance with Article 7 CRC.	Yes.	Article 6(1)(b), Rijkswet op het Nederlandschap (Act on Dutch Nationality): https://wetten.overheid.nl/BWBR0003738/2020-04-01#Hoofdstuk3 (NL)
PRS.1.b		Is the provision for otherwise stateless children to acquire nationality automatic or non-automatic (i.e. by application)?	UNHCR (2012) : The 1961 Convention provides Contracting States with two alternatives for granting nationality to otherwise stateless children born in their territory: either automatic acquisition upon birth or upon application. ENS (2015) : The 1961 Convention and the ECN oblige the conferral of nationality to otherwise stateless children born on the territory. The optimal method is to grant nationality automatically at birth.	It is non-automatic. A written statement must be made that is approved. The child needs to meet the following criteria: a. born on the territory; b. at least 3 years continuous legal and permanent residence on the territory; and c. stateless since birth The legislative proposal for an SDP of 2016 is intending to extend the right to opt for Dutch nationality to stateless children born in the Netherlands without legal residence. However, they would have to wait 5 years instead of the usual 3 years and they would be required to have had 'stable residence', meaning the parents should have always cooperated fully with national authorities. In the most recent legislative proposal for an SDP that has been sent to Parliament on 21 December 2020 these conditions have been changed. A stateless child born in the Netherlands without legal residence would now have to wait 10 years before they can submit an application for Dutch nationality, of which at least five uninterrupted years must be immediately prior to the declaration. Besides the cooperation requirement for the parents, it must be established that the child's statelessness cannot be resolved by the parents.	Article 6(1), Rijkswet op het Nederlandschap: https://wetten.overheid.nl/BWBR0003738/2020-04-01#Hoofdstuk3 (NL) Tweede Kamer 'Wet vaststellingsprocedure staatloosheid', 21 December 2020: https://www.tweedekamer.nl/kamerstukken/wetsvoorstellen/detail?cfg=wetsvoorsteldetails&qry=wetsvoorstel%3A35687 (for requirements relating to the right to opt for Dutch nationality for stateless children without legal residence see p. 4 of the explanatory memorandum.
PRS.1.c		Is it a requirement that the parents are also stateless for the otherwise stateless child to acquire nationality?	UNHCR (2012) : The test is not an inquiry into whether a child's parents are stateless. ENS (2015) : Only allowing access to nationality for stateless children whose parents are stateless fails to account for the circumstance where the parents hold a nationality 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. The latest Handleiding Uitvoeringsprocedures (Implementing Procedures Manual) of October 2020 states that children of Portuguese parents are temporarily registered as 'nationality unknown' until their birth is registered with the Portuguese authorities and Portuguese nationality can be obtained.	Article 6(1), Rijkswet op het Nederlandschap: https://wetten.overheid.nl/BWBR0003738/2020-04-01#Hoofdstuk3 (NL) Advisory Committee on Migration Affairs (ACVZ), 2013, Geen land te bekennen een advies over de verdragsrechtelijke bescherming van staatlozen in Nederland, pp.33-34: https://acvz.org/wp-content/uploads/2015/05/04-12-2013_GeenLandTeBekennen.pdf (NL) Handleiding Uitvoeringsprocedures Brp (15 november 2016) (Implementing Procedures Manual for BRP employees), p. 146: https://www.rvig.nl/brp/documenten/richtlijnen/2016/11/16/handleiding-uitvoeringsprocedures-hup-versie-2-5 (NL) Rijksdienst voor identiteitsgegevens, 'Handleiding Uitvoeringsprocedures', 4 October 2020, p. 135: https://www.rvig.nl/brp/documenten/publicaties/2020/09/25/versie-3.4-handleiding-uitvoeringsprocedure-hup
PRS.1.d		Are stateless children required to prove they	UNHCR (2012) : A Contracting State cannot avoid the obligations to grant	No, there is no requirement to prove that the child cannot access another nationality. But it	UNCHR, 2011, Mapping statelessness in the Netherlands, p.49:

		cannot access another nationality to acquire the nationality of the country of birth? If yes, please describe how this is determined in practice.	its nationality to a person who would otherwise be stateless based on its own interpretation of another State's nationality laws. The burden of proof must be shared between the claimant and the authorities. Decision-makers must consider Articles 3 & 7 CRC and adopt an appropriate standard of proof. Special procedural considerations to address the acute challenges faced by children in communicating basic facts about their nationality should be respected.	must be proven that the child is stateless, and the burden of proof lies with the applicant.	http://www.refworld.org/docid/4eef65da2.html (E) and http://www.aoo.nl/downloads/2014-09-12-UN.pdf (NL) Relevant case law includes: 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, please specify length and if this must be legal residence.	UN Convention on the Reduction of Statelessness, 1961 : Article 1(2) UNHCR (2012) : States may stipulate that an otherwise stateless individual born in its territory fulfils a period of 'habitual residence' (understood as stable, factual residence, not legal or formal residence) not exceeding five years preceding an application nor ten years in all. Convention on the Rights of the Child, 1989 : Articles 3 & 7 Committee on the Rights of the Child (2015) : Recommends the State party ensure that all stateless children born in its territory, irrespective of residency status, have access to nationality without any conditions. European Convention on Nationality, 1997 : Article 6(2)(b)	Yes, the stateless child should have had legal and habitual residence for a continuous period of at least 3 years. See PRS1.a. for details of changes proposed currently before Parliament for discussion.	Article 6(1)(b), Rijkswet op het Nederlandschap: https://wetten.overheid.nl/BWBR0003738/2020-04-01#Hoofdstuk3 (NL)
PRS.1.f		Are the parents of a stateless child required to fulfil a period of residence for the child to be granted nationality? If yes, please specify length and if this must be legal residence.	Committee on the Rights of the Child (2011) : The outcome of an application 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. ENS (2015) : Demanding that the child or their parents reside lawfully on the territory is prohibited by the 1961 Convention.	No.	Article 6(1)(b), Rijkswet op het Nederlandschap: https://wetten.overheid.nl/BWBR0003738/2020-04-01#Hoofdstuk3 (NL)
PRS.1.g		What are the age limits (if any) for making an application for nationality for a stateless person born on the territory?	UN Convention on the Reduction of Statelessness, 1961 : Article 1(2) UNHCR (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. ENS (2015) : Closing the window of opportunity to apply for a nationality has the effect of leaving it in the hands of parents to take the necessary steps to secure a nationality for their child.	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 to protect the right to a nationality of children born to refugees?	UNHCR (2012) : 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. Further registration of nationality in the municipal BRP (when possible) is determined based on the applicable nationality law.	Handleiding Rijkswet op het Nederlandschap 2003, para. 2.2.5.1: https://wetten.overheid.nl/BWBW33099/2020-10-15 (NL) Art. 2.15 Wet Basisregistratie Personen (Law Population Register): https://wetten.overheid.nl/BWBW0033715/2019-02-03#
PRS.2.a	Foundlings	Are foundlings granted nationality automatically by law? If not automatic, please describe the procedure.	Convention on the Reduction of Statelessness, 1961 : Article 2 European Convention on Nationality, 1997 : Article 6(1)(b)	Yes, foundlings are granted nationality 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 Nederlandschap met betrekking tot de verkrijging, de verlening en het verlies van het Nederlandschap: https://zoek.officielebekendmakingen.nl/dossier/25891-(R1609)/kst-25891-7?resultIndex=39&sorttype=1&sortorder=4 (NL) Article 3(2), Handleiding Rijkswet op het Nederlandschap 2003: https://wetten.overheid.nl/BWBW33099/2020-10-15#Circulaire.divisie3_Circulaire.divisie3.2 (NL)
PRS.2.b		Is there an age limit (e.g. 'new-born' or 'infant') in law or practice specifying when a	UNHCR (2012) : At a minimum, the safeguard should apply to all young children who are not yet able to communicate information about the	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	Article 3(2), Handleiding Rijkswet op het Nederlandschap 2003: https://wetten.overheid.nl/BWBW33099/2020-10-15

		foundling would qualify for nationality?	identity of their parents or their place of birth.	limit.	15#Circulaire.divisie3_Circulaire.divisie 3.2 (NL)
PRS.2.c		Can nationality be withdrawn from foundlings if this leads to statelessness?	UNHCR (2012) : Nationality acquired by foundlings may only be lost if it is proven that the child possesses another 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 parents are identified after six years of birth, then the child retains Dutch nationality.	Article 3(2), Handleiding Rijkswet op het Nederlanderschap 2003: https://wetten.overheid.nl/BWBW33099/2020-10-15#Circulaire.divisie3_Circulaire.divisie 3.2 (NL)
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 acquired?	UN Convention on the Reduction of Statelessness, 1961 : Article 5 ENS (2015) : Children may be exposed to a (temporary) risk of statelessness during the adoption process due to the nationality law of the child's country of origin.	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: a. 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) b. becomes stateless (unless there is proof of fraudulent acts) c. is a third generation national (unless he waives Dutch nationality, provided he has the nationality of a parent or adoptive parent) d. is given the same nationality as a parent or adoptive parent and his second (adoptive) parent is Dutch. Later loss of Dutch nationality by this second (adoptive) parent is not relevant in this case; e. 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 nationality, provided he has the nationality of a parent or adoptive parent) f. has (or has had) a permanent residence for a continuous period of at least five years in the country of which he obtains the new nationality (unless he waives Dutch nationality, provided he has the nationality of a parent or adoptive parent).	Government of the Netherlands website, Minors and Dutch nationality: https://www.government.nl/documents/publications/2017/10/05/minors-and-loss-of-dutch-nationality
PRS.3.b		Does a foreign child adopted by national parents acquire nationality? Please specify any age limits and/or risk of statelessness during the adoption process.	European Convention on Nationality, 1997 : Article 6(4)(d) Committee on the Rights of the Child (2015) : Ensure that the child is not stateless or discriminated against during the waiting period between arrival and formal adoption.	Yes, children with one or more Dutch adoptive parents obtain Dutch nationality by law when it concerns a 'strong' (full) adoption. A 'strong' adoption means that the original legal family ties between the child and the former parents are broken. Children who live abroad together with their adoptive parents during the adoption request and decision can legally become Dutch nationals when the foreign adoption decision is also legally recognised. Minor children who have been adopted outside the Netherlands by at least one Dutch parent who has a 'beginseltoestemming' (a statement from the Dutch Ministry of Justice and Security that the parent is fit to adopt a foreign child), become Dutch citizens as soon as the Dutch judge has recognised the foreign adoption. In case of a 'weak' adoption (where the legal family ties between the child and original parents still exist) the minor child can only obtain Dutch nationality when the Dutch judge has converted the adoption into an adoption under Dutch law. In these cases, the minor adopted child will only become a Dutch citizen when the (foreign) adoption decision has obtained res judicata ('kracht van gewijsde'). The law maintains that the child should be a minor on the day of the decision (under 18 years). This process is not automatic as conditions must be met, which could cause obstacles in practice, though no information is available as to whether this has caused issues for adopted children. When the adoption decision is confirmed under Dutch law, Dutch nationality will be obtained. Potential loss of the original nationality depends on other countries' nationality laws over which the Dutch state has no influence (e.g. China does not allow dual nationality; under Brazilian law, Brazilian nationality can't be lost due to adoption). Assuming that the	Everaert Lawyers, Adoption and Dutch nationality: https://www.everaert.nl/nl/15-particulieren-nl/107-adoptie-en-de-nederlandse-nationaliteit Immigration and Naturalisation Service, Adoptie- of pleegkind: https://ind.nl/Familie/Paginas/Adoptie--of-pleegkind.aspx (NL) Rijkswet op het Nederlanderschap (Dutch nationality law), Arts. 5, 5a & 5b: https://wetten.overheid.nl/BWBR0003738/2020-04-01#Hoofdstuk5 (NL)

				original nationality will be lost only upon obtaining Dutch nationality, statelessness will not occur.	
PRS.4.a	Ius sanguinis	Can children born to nationals abroad acquire nationality by descent (<i>ius sanguinis</i>) in general and/or if they would otherwise be stateless?	UN Convention on the Reduction of Statelessness, 1961 : Article 4 UNHCR (2012) : Where a child who would otherwise be stateless is born to parents of another Contracting State but does not acquire the nationality of the State of birth responsibility falls to the Contracting State of the parents to grant its nationality to the child.	Yes, children with parents of Dutch nationality have access to nationality by descent.	Immigration and Naturalisation Service, Dutch citizen by birth or acknowledgement: https://ind.nl/en/dutch-citizenship/Pages/by-birth-or-acknowledgement.aspx Article 3(1) & 4, Handleiding Rijkswet op het Nederlanderschap 2003: https://wetten.overheid.nl/BWBW33099/2020-10-15# (NL) ECLI:NL:PHR:2017:8, 13 January 2017, para. 2.26-2.27: https://uitspraken.rechtspraak.nl/inzie ndocument?id=ECLI:NL:PHR:2017:8 (NL) 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
PRS.4.b		Are there any discriminatory conditions in law and/or practice for the acquisition of nationality by descent (e.g. differential treatment of children born out of wedlock, rights of father/mother/same-sex parents to confer nationality, etc.)?	Genovese v. Malta ECtHR (2011) : The state must ensure that the right to nationality is secured without discrimination. CEDAW Gen. rec. No. 32, 2014 : Requires States parties to ensure that women and men have equal rights to confer their nationality to their children and that any obstacles to practical implementation of such laws are removed. UNHCR (2014) : Action 4	Yes. 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 in order to pass on the Dutch nationality. He must do so within 1 year of the acknowledgement. A judgment from the Supreme Court of the Netherlands, referring to Recommendation CM/Rec(2009)13 and explanatory memorandum of the Council of Europe, found that the requirement of DNA proof is not in accordance with the European Convention on Nationality (ECN), although it is stated that it is not forbidden by the ECN. In addition, Prof. Gerard-René de Groot considers the requirement of a DNA test to be discriminatory and not in conformity with international standards. If a parent acquires Dutch nationality after acknowledging the child, the child can only apply for Dutch nationality together with this parent if he or she immediately before the application has a valid permanent residence permit. If the child is 16 or 17 years old, they are also required to have lived uninterruptedly in the Netherlands for at least 3 years. This discriminates the child based on his or her legal status. Dutch nationality is automatically obtained by the child if the father already has Dutch nationality at the time of acknowledgement and acknowledges the child after birth, but before their 7 th birthday. Further, ASKV sees in practice that Dutch fathers can face difficulties and delays acknowledging their child when the mother does not have legal residence and official identification documents.	Immigration and Naturalisation Service, Dutch citizen by birth or acknowledgement: https://ind.nl/en/dutch-citizenship/Pages/by-birth-or-acknowledgement.aspx Article 3(1) & 4, Handleiding Rijkswet op het Nederlanderschap 2003: https://wetten.overheid.nl/BWBW33099/2020-10-15# (NL) Dutch Supreme Court, ECLI:NL:PHR:2017:8, 13 January 2017, para. 2.26-2.27: https://uitspraken.rechtspraak.nl/inzie ndocument?id=ECLI:NL:PHR:2017:8 (NL) Council of Europe, Recommendation CM/Rec(2009)13 and explanatory memorandum, 2010: https://www.refworld.org/docid/4dc7bf1c2.html 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 Immigration and Naturalisation Service, 'Naturalisation' (see paragraphs 'Children under 16' and 'Children of 16 or 17 years old'): https://ind.nl/en/dutch-citizenship/Pages/Naturalisation.aspx and article 11(2) and 11(3) of the Dutch Nationality Act : https://wetten.overheid.nl/BWBR0003738/2020-04-01#Hoofdstuk4 Immigration and Naturalisation Service, 'Dutch citizen by birth or acknowledgement': https://ind.nl/en/dutch-citizenship/Pages/by-birth-or-acknowledgement.aspx and article 4(2) of the Dutch Nationality Act : https://wetten.overheid.nl/BWBR0003738/2020-04-01#Hoofdstuk2
PRS.5.a	Birth registration	Does the law provide that all children are registered immediately upon birth regardless of the legal status and/or documentation of parents?	Convention on the Rights of the Child, 1989 : Article 7 International Covenant on Civil and Political Rights, 1966 : Article 24(2) Council of Europe (2009) : Member states should 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 the	A child must be registered within 3 days of birth. A valid identity card is required for registration. When neither parent has legal residence, the same conditions apply and there are multiple options to register the child (in order of preference): 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	Article 1:19e (6), BW (Civil Code): https://wetten.overheid.nl/BWBR0002656/2020-01-01#Boek1_Titeldeel4_Afdeling4_Artike l19e (NL) Government of the Netherlands website, Declaration of birth: https://www.rijksoverheid.nl/onderwe

			<p>parents are unknown. UNHCR (2012): Article 7 CRC applies irrespective of the nationality, statelessness or residence status of the parents. UNHCR (2014): Action 7 UN Sustainable Development Goal 16.9</p>	<p>3. Main tenant of the house 4. Officer of the civil registry. If the child is born in hospital, a medical statement may be provided with the date and time of birth and the sex of the baby. If the mother has no way of identifying herself in order to be mentioned on the birth certificate, the responsible officer of the civil registry can refer the case to the Public Prosecution Service and the birth certificate with regard to her details is drawn up by order and in accordance with their instructions (Article 1:19b, BW (Civil Code)). The father is mentioned on the birth certificate if he has legally acknowledged the child. In this case the following documents are necessary in case the father is not Dutch: 1. Legalised birth certificate 2. Legalised statement of non-marriage or a copy of the marriage certificate 3. Identity document</p>	<p>rpen/aangifte-geboorte-en-naamskeuze-kind/vraag-en-antwoord/aangifte-geboorte (NL)</p> <p>Ilegaalkind.nl website, Who should make a birth declaration?: http://www.ilegaalkind.nl/?id=197&mainId=36 (NL)</p> <p>LOS Foundation, Undocumented support point – having children: http://www.stichtinglos.nl/content/kinderen-krijgen (NL)</p>
PRS.5.b	Are all children issued with birth certificates upon registration? If no, please describe legal status of documentation issued.	<p>UN Human Rights Council, Resolution A/HRC/RES/20/4: Underscores the importance of effective birth registration and provision of documentary proof of birth irrespective of immigration status and that of parents or family members. Committee on the Rights of Migrant Workers and Members of their Families & Committee on the Rights of the Child (2017): Take all necessary measures to ensure that all children are immediately registered at birth and issued birth certificates, irrespective of their migration status or that of their parents.</p>	<p>Yes. The child may either receive an official copy of the certificate, or an international extract. (The copy is an official copy of the certificate stamped by the municipality. The copy states the same as on the original certificate itself. An international extract is a current summary of the certificate with an explanation in English, German, French, Spanish, Italian, Portuguese, Greek, Turkish and Serbo-Croat.)</p>	<p>See the governmental website on the practice of birth registration: https://www.rijksoverheid.nl/onderwerpen/aangifte-geboorte-en-naamskeuze-kind/vraag-en-antwoord/aangifte-geboorte</p> <p>See for example the practice of obtaining a birth certificate in the Amsterdam Municipality: https://www.amsterdam.nl/veelgevraagd/?productid=%7BFCCA0186-543A-4EB2-89EA-59EB5A6929FB%7D</p>	
PRS.5.c	Is the child's nationality determined or recorded upon birth registration? If yes, please describe how and by whom (e.g. if the mother/father's nationality is recorded and/or automatically attributed to the child, if there's a formal procedure, if information on both parents is recorded etc.)	<p>Convention on the Rights of the Child, 1989: Articles 3 & 7</p>	<p>No. A birth certificate contains the following information: - first and last names - date of birth - place of birth - sex - who the parents are The place of birth of the parents and their date of birth is also recorded.</p>	<p>See the governmental website on the practice of birth registration: https://www.rijksoverheid.nl/onderwerpen/aangifte-geboorte-en-naamskeuze-kind/vraag-en-antwoord/aangifte-geboorte</p>	
PRS.5.d	If a child's nationality is not determined or recorded upon birth registration, is there a legal framework to determine the child's nationality later? If yes, please describe the procedure, including the legal grounds, deadlines and competent authority.	<p>Convention on the Rights of the Child, 1989: Articles 3 & 7 UN Convention on the Reduction of Statelessness, 1961: Articles 1 & 4 UNHCR (2012): States need to determine whether a child would otherwise be stateless as soon as possible so as not to prolong a child's status of undetermined nationality. Such a period should not exceed five years.</p>	<p>The child's nationality is determined during the formal registration in the Dutch Population Register (Basis Registratie Personen, BRP) in case of legal residence. BRP registration is based on identity documents issued by a competent authority evidencing someone's nationality (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). There are also other circumstances in which statelessness can be registered without documents, for example when nationality law states that the mother cannot confer this on the child.</p> <p>There are no safeguards in place to ensure that a child does not remain with undetermined nationality for a period over 5 years.</p> <p>In a ground-breaking decision on 28 December 2020, the Human Rights Committee found that the Netherlands violated a child's rights by registering "nationality unknown" in his civil records as this left him unable to be registered as stateless under Dutch law and therefore be given international protection as a stateless child. The Committee requested the Netherlands to review its decisions on the application to be registered as stateless in the civil registry, and on his application to be recognised as a Dutch national. Additionally, the Netherlands is under the obligation to take all necessary steps to avoid similar violations in the future, including by</p>	<p>Wet Basisregistratie personen (BRP) (Law on the Population Register) https://wetten.overheid.nl/BWBR0033715/2019-02-03# (NL)</p> <p>Handleiding Uitvoeringsprocedures, September 2019, p. 133: https://www.rvig.nl/documenten/publicaties/2019/09/05/hup-versie-3.2a</p> <p>OHCHR 'The Netherlands violated child's right to acquire a nationality, UN Committee finds', 29 December 2020: https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26631&LangID=E</p>	

				reviewing its legislation in accordance with its obligation under Article 2 of the Covenant to ensure that a procedure for determining statelessness status is established, as well as reviewing its legislation on eligibility to apply for nationality, in order to ensure this is in compliance with Article 24 of the ICCPR.	
PRS.5.e	Are there credible reports to suggest that children are prevented from registering in practice because of parents' legal status or other reasons (please specify)?	<p>Committee on the Rights of Migrant Workers and Members of their Families & Committee on the Rights of the Child (2017): Urge States parties to take all necessary measures to ensure that all children are immediately registered at birth and issued birth certificates, irrespective of their migration status or that of their parents. Legal and practical obstacles to birth registration should be removed.</p> <p>Global Compact for Safe, Orderly and Regular Migration: States will contribute resources and expertise to strengthen the capacity of national civil registries to facilitate timely access by refugees and stateless persons to civil and birth registration.</p> <p>Global Compact on Refugees: States commit to fulfil the right of all individuals to a legal identity and ensure that migrants are issued documentation and civil registry documents.</p> <p>European Parliament Resolution (2019): Calls on Member States to take immediate corrective measures to stop discriminatory birth registration.</p>	<p>In practice it can be more difficult to register the birth of a child when both parents do not have legal residence status and lack official identity documents (for example, someone else who was present at the birth with identity documents needs be prepared and able to register the birth in time). In addition, parents without legal residence status can be scared to register the birth of their child because of a fear of detention (despite there not being a reporting requirement) or parents lack the knowledge of the Dutch law and practice regarding registering their child.</p> <p>No official reports are known where children were prevented from registering due to a refusal from the applicable municipality.</p> <p>In the case of victims of human trafficking, unlike in the case of asylum seekers, birth registration does not take place when the child is born en route outside of the Netherlands. In these cases, cooperation has taken place between the lawyer Else Weijzenfeld, Defence for Children, and DLA Piper in which DLA finances DNA tests so that late birth registration can take place.</p>	ASKV Refugee Support and Defence for Children casework/practice.	
PRS.5.f	Are there mandatory reporting requirements that would deter undocumented parents from coming forward to register their children (e.g. health or civil registry authorities required to report undocumented migrants)?	<p>Committee on the Rights of Migrant Workers and Members of their Families & Committee on the Rights of the Child, JGC No. 4 (2017) and JGC No. 3 (2017): Legal and practical obstacles to birth registration should be removed, including by prohibiting data sharing between health providers or civil servants responsible for registration with immigration enforcement authorities; and not requiring parents to produce documentation regarding their migration status. Children's personal data, in particular biometric data, should only be used for child protection purposes.</p> <p>Council of Europe: ECRI General Policy Recommendation No. 16(2016) on safeguarding irregularly present migrants from discrimination: States should clearly prohibit the sharing of information about migrants suspected of irregular presence with immigration authorities. These firewalls must be binding on state authorities and the private sector.</p>	<p>The only evidence that can be found is that the municipality may pass on information on changes in a legally residing person's registration in the BRP (population register) to the Dutch immigration services (IND). Undocumented parents may register the birth of their children in the respective municipality. No mandatory reporting requirements are known.</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 (NL)	
PRS.5.g	Is there a statutory deadline for birth registration? If yes, please state the deadline and whether late birth registration is possible in law and practice.	<p>Committee on the Rights of Migrant Workers and Members of their Families & Committee on the Rights of the Child (2017): Measures should also be taken to facilitate late registration of birth and to avoid financial penalties for late registration.</p> <p>UN Human Rights Council, Resolution A/HRC/RES/20/4: Calls upon States to ensure free birth registration, including free or low-fee late birth registration, for every child.</p>	<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. Late registration 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.</p>	<p>Article 1:19e, BW (Civil Code): https://wetten.overheid.nl/BWBR0002656/2020-01-01#Boek1_Titeldeel4_Afdeling4_Artike119e (NL)</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 (NL)</p> <p>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 (NL)</p>	

					<p>Immigration and Naturalisation Service website, Dutch citizen by birth or acknowledgement: https://ind.nl/en/dutch-citizenship/Pages/by-birth-or-acknowledgement.aspx</p> <p>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 (NL)</p>
PRS.5.h		Are there additional requirements for late birth registration (e.g. fees, documents, court procedure)? Please describe the procedure including the competent authority and procedural deadlines.	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.	
PRS.6.a	Reduction	Does the government have any programmes in place to promote civil registration (including birth registration)? If yes, please provide details.	UNHCR (2014) : Action 7	There is no information available about any programmes in place to promote civil registration in the Netherlands.	
PRS.6.b		Are there particular sections of the population - such as minority groups or people affected by conflict - believed to be stateless/at risk of statelessness? Please provide details and source of information.	<p>UN Convention on the Reduction of Statelessness, 1961: Article 9</p> <p>UNHCR (2014): Action 4</p> <p>UN Human Rights Council (2019): States should take legislative, administrative and policy measures aimed at eliminating statelessness affecting minorities.</p>	<p>Part of the Roma population in the Netherlands is believed to be unregistered, as the registration system is inadequate for this community. Families do not (consistently) register in the BRP (in case of a move, birth, or partnership) either because they lack information, or a residency permit, or they may register under a different name. There have been anecdotal cases of Roma de-registering themselves from the municipality e.g. because they plan to move abroad (and later change plans) or wish to withdraw from contact with the authorities.</p> <p>Most registered stateless persons in the Netherlands are Palestinians and Kurds from Syria, due to the recent influx of refugees from Syria. Other backgrounds include Moluccans/Indonesian descent (13% of the registered stateless persons in 2010), Suriname, and former Soviet-Union.</p>	<p>Aanpak multi-problematiek bij gezinnen met een Roma-achtergrond (2013), p. 76: https://vng.nl/files/vng/nieuws_attachments/2013/20130315-roma-multiproblematiek.pdf (NL)</p> <p>EenVandaag, Aantal staatlozen in Nederland neemt toe (Number of Stateless Persons in the Netherlands Increasing), October 2017: https://eenvandaag.avrotros.nl/item/aantal-staatlozen-in-nederland-neemt-toe/ (NL)</p> <p>UNCHR Statelessness in the Netherlands, 2011, p. 24 http://www.unhcr.org/nl/wp-content/uploads/UNHCR-Staatloosheid-in-Nederland-NLD.pdf (NL)</p> <p>Dutch Government, Staatloosheid (Statelessness): https://www.rijksoverheid.nl/onderwerpen/nederlandse-nationaliteit/staatloosheid</p>
PRS.6.c		Has the Government implemented any other measures specifically aimed at reducing (risk of) statelessness? (e.g. identification, registration or naturalisation campaigns, removal of treaty reservations, reform of discriminatory laws, etc.)	<p>UN Convention on the Reduction of Statelessness, 1961</p> <p>UNHCR (2014): Actions 1 & 8</p> <p>UNHCR (2015): States parties to the 1954 Convention are required to help stateless persons become naturalised nationals.</p>	<p>With the publication of a legislative proposal for a statelessness determination procedure in 2016, the Dutch Government has begun to address the problems surrounding the identification of stateless persons in the country and aims to improve the situation through a central identification procedure. In addition, the new law also intends to remove the obligation on stateless children to reside legally in the country in order to opt for Dutch nationality (although new 'stable principal residence' requirements are considered discriminatory because of the requirements set on the parent of the undocumented child). As per the most recent legislative proposal for an SDP that has been sent to Parliament on 21 December 2020 for future discussion, a stateless child born in the Netherlands without legal residence would now have to wait 10 years before it can submit an application for Dutch nationality, of which at least five uninterrupted years must be immediately prior to the declaration. Besides the cooperation requirement for the parents, it must be established that the</p>	<p>Rijkswet vaststellingsprocedure staatloosheid (Legislative proposal for a statelessness determination procedure): https://www.internetconsultatie.nl/staatloosheid/details (NL)</p> <p>Dutch Government, Losing Dutch nationality: https://www.government.nl/topics/dutch-nationality/loss-of-dutch-nationality</p> <p>Tweede Kamer 'Wet vaststellingsprocedure staatloosheid', 21 December 2020: https://www.tweedekamer.nl/kamerstukken/wetsvoorstellen/detail?cfg=wetsvoorstel%3A35687 (explanatory memorandum p. 4)</p> <p>Tweede Kamer 'Wijziging van de Rijkswet op het Nederlanderschap en de Paspoortwet alsmede intrekking</p>

				<p>child's statelessness cannot be resolved by the parents.</p> <p>Lastly, the Government committed to withdrawing reservations under Articles 8 & 26 of the 1954 Convention. This has been confirmed by the legislative proposal for an SDP sent to Parliament in December 2020.</p> <p>In 2017, the Dutch Government started a campaign to make people with dual nationality aware of the fact they can lose their Dutch nationality automatically.</p> <p>Under the recent ground-breaking decision by the Human Rights Committee (28 December 2020), the Netherlands has to review, and report to the HRC within 180 days, its legislation to ensure that a procedure for determining statelessness status is established, as well as reviewing its legislation on eligibility to apply for nationality.</p>	<p>van voorbehouden bij het Verdrag betreffende de status van staatlozen in verband met de vaststelling van staatloosheid', 21 December 2020: https://www.tweedekamer.nl/kamerstukken/wetsvoorstellen/detail?id=2020Z25636&dossier=35688-%28R2151%29</p> <p>OHCHR 'The Netherlands violated child's right to acquire a nationality, UN Committee finds', 29 December 2020: https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26631&LangID=E</p>
PRS.7.a	Deprivation of nationality	Are there any provisions on deprivation of nationality that could render a person stateless? Please state whether there is a safeguard against statelessness established in law and on what grounds deprivation of nationality may result in statelessness (e.g. national security, fraud, etc.).	<p>UN Convention on the Reduction of Statelessness, 1961: Article 8 & 9</p> <p>European Convention on Nationality, 1997: Article 7(3)</p> <p>Universal Declaration of Human Rights: Article 15(2)</p> <p>Principles on Deprivation of Nationality and the Draft Commentary: Principle 2.2: Deprivation of nationality refers to any loss, withdrawal or denial of nationality that was not voluntarily requested by the individual; Principles 4, 5 & 6</p> <p>Report of the Secretary-General on Human Rights and Arbitrary Deprivation of Nationality (2009): para. 23</p> <p>UNHCR Guidelines on Statelessness No.5 (2020): the prohibition of arbitrary deprivation of nationality also includes situations where there is no formal act by a State but where the practice of its competent authorities clearly shows that they have ceased to consider a particular individual/group as national(s) (e.g. where authorities persistently refuse to issue or renew documents without providing an explanation or justification).</p>	<p>Provisions for withdrawal of nationality are established in the Dutch Nationality Law (Chapter 5). Only article 14(1) allows for statelessness in case of fraud in the process of obtaining Dutch nationality. Automatic loss of Dutch nationality is never possible when someone only has Dutch nationality as this would result in statelessness. In 2017, the Dutch Government started a campaign to make people with dual nationality aware of the fact they can lose their Dutch nationality automatically.</p>	<p>Rijkswet op het Nederlandschap (Dutch nationality law), Chapter 5: https://wetten.overheid.nl/BWBR0003738/2020-04-01#Hoofdstuk5 (NL)</p> <p>Dutch Government, Revocation of Dutch nationality by the authorities: https://www.government.nl/topics/dutch-nationality/loss-of-dutch-nationality/revocation-of-dutch-nationality-by-the-authorities</p> <p>Dutch Government, Losing Dutch nationality: https://www.government.nl/topics/dutch-nationality/loss-of-dutch-nationality</p>
PRS.7.b		Who is the competent authority for deprivation of nationality and what procedural safeguards are in place (e.g. due process, fair trial, participation in the proceedings, legal aid, judicial oversight, appeal, time limit, subject to prior sentencing)?	<p>UN Convention on the Reduction of Statelessness, 1961: Article 8(4)</p> <p>European Convention on Nationality, 1997: Article 11</p> <p>Principles on Deprivation of Nationality: Principle 7. Deprivation of nationality must be carried out in pursuance of a legitimate purpose, provided for by law, necessary, proportionate and in accordance with procedural safeguards; Principle 8: Everyone has the right to a fair trial or hearing and to an effective remedy and reparation.</p>	<p>The Minister of Justice and Security is the competent authority for ordering deprivation of Dutch nationality. Appeal against the decision to deprive someone of Dutch nationality is possible within 4 weeks. At the latest on the twenty-eighth day after the publication of a decision to withdraw Dutch nationality, the Minister must inform the court. Higher appeal against the decision of the court is possible at the Council of State. The individual has the right to legal aid and a counsellor will be assigned if necessary.</p>	<p>Rijkswet op het Nederlandschap (Dutch nationality law), Chapter 5 & Chapter 7a: https://wetten.overheid.nl/BWBR0003738/2020-04-01# (NL)</p>
PRS.7.c		Are provisions on deprivation of nationality that may render a person stateless applied in practice?		Yes.	
PRS.7.d		Are there safeguards in law and practice to prevent renunciation or other forms of voluntary loss of nationality from resulting in statelessness?	<p>UN Convention on the Reduction of Statelessness, 1961: Article 7</p> <p>European Convention on Nationality, 1997: Articles 7 and 8</p>	<p>Yes, a renunciation statement has no legal effect if this would render the person stateless. Municipalities, who are responsible for accepting the renunciation statement, oblige the person wishing to renounce Dutch nationality to have another nationality.</p>	<p>Explanation on Article 15 (1)b, Handleiding Rijkswet op het Nederlandschap: https://wetten.overheid.nl/BWBW33099/2020-10-15# (NL)</p>
PRS.7.e		Are there any provisions on deprivation of nationality in a national security context (regardless of whether they could render a person stateless)? Please describe these	<p>Principles on Deprivation of Nationality Principle 4: States shall not deprive persons of nationality for the purpose of safeguarding national security. Where provisions exist, these should be interpreted narrowly and in accordance with international law standards.</p>	<p>Yes. In the interest of national security, the Minister may revoke the Dutch nationality of a person who has reached the age of 16 and who is outside the Kingdom, if it appears from their conduct that they have joined an organisation that is seen by the Minister, and in accordance with the views of the Kingdom's Council of Ministers, as an</p>	<p>Article 14(4) and (8), Rijkswet op het Nederlandschap: https://wetten.overheid.nl/BWBR0003738/2020-04-01#Hoofdstuk5</p>

		provisions and if/how they are applied in practice.		organisation that is placed on a list of organisations that are involved in a national or international armed conflict and that pose a threat to national security (Article 14(4)). However, the deprivation will not take place if this results in statelessness (Article 14(8)).	
PRS.7.f		Are there any provisions on deprivation of nationality that directly or indirectly discriminate a person or group of persons on any ground prohibited under international law or that discriminate between nationals? Please describe these provisions and if/how they are applied in practice.	<p>ICCPR: Article 26 UN Convention on the Reduction of Statelessness, 1961: Article 9 European Convention on Nationality, 1997: Article 5 Principles on Deprivation of Nationality: Principle 6. Prohibited grounds for discrimination include race, colour, sex, language, religion, political or other opinion, national or social origin, ethnicity, property, birth or inheritance, disability, sexual orientation or gender identity, or other real or perceived status, characteristic or affiliation. Each State is also bound by the principle of non-discrimination between its nationals.</p>	<p>Yes. Several authors have claimed that Article 14(4) of the Dutch Nationality Act, which allows for deprivation of Dutch nationality of dual nationals, leads to unequal treatment between mono-nationals and dual nationals (in particular Dutch-Moroccan nationals), therefore discriminating on grounds of nationality.</p> <p>On 16 September 2019 the court in The Hague held that the deprivation of Dutch nationality of a Dutch-Moroccan national did not violate the prohibition of discrimination.</p>	<p>Florimond Wassenaar, 'Discriminatie van IS en Al-Nusra-strijders bij intrekking Nederlandschap in Unierechtelijk perspectief', Cimmigratie & Recht, Aflevering 1, 2018: https://www.bjutijdschriften.nl/tijdschrift/CenR/2018/1/CenR_2542-9248_2018_002_001_002</p> <p>U.J. d'Oliveira, 'Geen discriminatie als gelijke behandeling verboden is?', Nederlands Juristenblad, 27 november 2015: https://www.njb.nl/blogs/geen-discriminatie-als-gelijke-behandeling-verboden-is/</p> <p>Peter Rodrigues, 20 November 2019: https://www.universiteitleiden.nl/nieuws/2019/11/rodrigues-over-de-terugkeer-van-is-strijders-en-het-intrekken-van-hun-nederlandse-nationaliteit</p> <p>VU Migration Law Clinic, 'The legality of revocation of Dutch nationality of dual nationals involved in terrorist organizations', July 2018: https://migrationlawclinic.files.wordpress.com/2018/09/mlc-nationality-case-final-version.pdf</p> <p>ECLI:NL:RBDHA:2019:9682, 16 September 2019: https://uitspraken.rechtspraak.nl/inzie ndocument?id=ECLI:NL:RBDHA:2019:9682</p>

Resources

Item	Subtheme	Question	International Norms & Good Practice	Answer	Source
RES.1.a	Published judgments	Number of published judgments adjudicating statelessness (broken down by level of jurisdiction). Please list the most relevant ones.		22 published public judgments with the 'content indication' 'statelessness' are found: <ul style="list-style-type: none"> • Court judgments (rechtbanken): 19 • Central Board of Appeal (Centrale Raad van Beroep): 1 • Gerechtshoven: 1 • Other institutions within the Kingdom: 1 	De Rechtspraak (Judiciary) website, search term <<staatloosheid>> (statelessness) in 'content indication': https://uitspraken.rechtspraak.nl/#zoekverfijn/zt[0][zt]=staatloosheid&zt[0][fi]=Samenvatting&zt[0][ft]=Inhoudsindicatie&so=Relevance&ps]=ps1
RES.1.b		Number of published judgments mentioning statelessness (broken down by level of jurisdiction). Please list the most relevant ones.		203 published public judgments mention statelessness (staatloosheid): <ul style="list-style-type: none"> • Court judgments (rechtbanken): 138 • Administrative district court Council of State (Afdeling bestuursrechtspraak van de Raad van State (ABRVs): 44 • Central Board of Appeal (Centrale Raad van Beroep): 6 • Supreme court (Hoge Raad): 11 • Gerechtshoven: 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]=ps0
RES.2.a	Pro Bono	Are there specialised lawyers or organisations providing free advice to stateless people or those at risk of statelessness? If yes, please describe.	UNHCR (2014) : Applicants must have access to legal counsel.	Organisations include: PILP (Public Interest Litigation Project), Vluchtelingen in de Knel, ASKV, Stichting LOS and other support organisations such as Stichting ROS, INLIA, Stichting STIL, Dutch Council for Refugees, etc. Multiple law firms, for example Hamerslag & van Haren (most notably Frank van Haren), Prakken d'Oliveira (most notably Flip Schüller and Wil Eikelboom), Fischer Groep, Everaert Advocaten, etc. (not always free of charge)	PILP: https://pilpnjcm.nl/en/dossiers/statelessness/ Vluchtelingen in de Knel: http://www.vluchtelingenindeknel.nl/ ASKV Refugee Support: http://www.askv.nl/staatloosheid Hamerslag & van Haren: http://www.hvh-advocaten.nl/ Prakken d'Oliveira: http://www.prakkendoliveira.nl/
RES.3.a	Literature	Is there domestic academic literature on statelessness? Please list and provide references and hyperlinks (where available).		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.	Laura van Waas, 2013, Nederland: microkosmos voor de actuele Staatloosheidsproblematiek, A&MR 2013: pp. 256-260 https://pure.uvt.nl/ws/portalfiles/portal/1528340/van_Waas_Asiel_Migrantenrecht.pdf 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 Sangita Jaghai en Caia Vlieks, Buitenschuldbeleid schiet tekort in bescherming staatlozen, A&MR 2013: 5-6, pp. 287-292 Katja Swider and Caia Vlieks, Discriminatie van staatloze kinderen zonder wettig verblijf, A&MR 2016: 4, pp. 168-174 Karel Hendriks, Jelle Klaas en Marlotte van Dael, Juridische spoken verdwijnen nog niet, Gebrekkig wetsvoorstel vaststellingsprocedure voor staatlozen, A&MR 2017: 2, pp. 75-81 https://www.askv.nl/wp-content/uploads/2017/09/AsielMigrantenrecht-2017-nr.-2-Juridische-spoken-verdwijnen-nog-niet.-Gebrekkig-wetsvoorstel-vaststellingsprocedure-voor-staatlozen.pdf Marlotte van Dael, Jelle Klaas en Loïs Vaars, Staatloosheid als moderne vorm van uitsluiting, Naar een duurzame oplossing voor staatlozen in Nederland, Justitiële Verkenningen 2018:2, pp. 99-116

					https://www.wodc.nl/binaries/JV1802_Volledige%20tekst_tcm28-327814.pdf#page=100
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