

Strasbourg, 11 June 2024 CDCJ(2024)06

EUROPEAN COMMITTEE ON LEGAL CO-OPERATION

(CDCJ)

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| Questionnaireon stateless children’s access to nationality and child sensitive procedures for stateless children |

Document prepared by the Secretariat

Directorate General Human Rights and Rule of Law – DGI

Introduction

For the purposes of the preparation of a compendium of good practices in respect of legal aid and representation, access to information and to justice for children in procedures relating to the determination of nationality or statelessness, and a non-binding legal instrument regarding stateless children’s access to nationality, including guidance on child-sensitive procedures relating to the determination of nationality or statelessness, the CDCJ prepared this questionnaire to collect information from member states.

CDCJ members (or national experts) are invited to return their replies to the questionnaire (in a word format) at their earliest convenience and no later than 31 July 2024 to the following address: DGI-CDCJ@coe.int.

In your replies, you are invited to:

* refer to the relevant legislation and case law, and
* identify any promising practices and existing challenges.

For follow-up purposes or additional information needs, please also fill in the form below.

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| Member State |  |
| Name of contact person  |  |
| Name of authority / office  |  |
| Telephone number  |  |
| E-mail address |  |

1. Preventing statelessness among children
2. Do nationality laws give the right to and provide legal safeguards for children to acquire a nationality or to be given the nationality of the country where they are, if they would otherwise be stateless (including those born within the territory, those born to foreign nationals, foundlings and adopted children, as well as those who lost their nationality)? What are the legal safeguards and are they applied automatically or upon application?

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1. What guarantees of acquisition of nationality for children are applied in practice, including when the child’s statelessness is not formally established?

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1. Is there a specific authority mandated by law to establish the nationality of a child born on the country's territory if it is in doubt? If so, please provide details about the applicable procedure (responsibilities, procedures, deadline for applying, etc.). Is the procedure initiated automatically or upon application?

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1. Is there a framework for cooperation with third countries in order to determine or confirm the child’s nationality as quickly as possible? What measures are in place to assist a child born in your country to determine whether they have acquired the nationality of a third country (for example the nationality of the country of which a parent is a national)?

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1. Child-friendly procedures for determining nationality or statelessness: legal aid, representation, access to information and justice for children
2. *Stateless children or children at risk of statelessness*
3. Is there a specific procedure for determining statelessness status? If so, is there a procedure adapted to children? Specify the additional procedural, material and evidentiary guarantees for children, including:

- time limits, non-discrimination with regard to residence status, child-friendly procedures (e.g. multidisciplinary approach and child-friendly environment) and sharing of the burden of proof especially where cooperation with third countries proves difficult or does not exist;

- the right to legal aid, the representation of children (including through a guardian), their access to information and to justice.

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1. How is information on statelessness and its connections with access to nationality made accessible to stateless children (including on their rights, available services, access to specialised lawyers and the aim and possible outcome of the procedure) and to those assisting them (including on relevant legal frameworks, case law and signposting information)?

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1. In practice, what are the strengths identified and the challenges encountered in the implementation of the procedures for determining statelessness status or nationality in the specific case of children, including migrant children?

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1. *Particular case of unaccompanied children*
2. When an unaccompanied child does not have identity documents, what is the procedure to determine the child's age in case of doubt? What are the safeguards in respect of this procedure?

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1. Is there a procedure for determining statelessness status or nationality adapted to unaccompanied children? Is there an obligation to appoint a guardian for unaccompanied children for the filing of a procedure to acquire nationality, and to grant legal aid for that purpose? Specify the guarantees existing for children (see question 5), in particular, in terms of burden of proof.

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1. Birth registration
2. Is birth registration immediate and free of charge, in principle and in practice?

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1. What are the requirements for registration? Is birth registration dependent on the parents’ documentation?

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1. Does the law allow for flexibility in evidentiary and documentation requirements (e.g. by accepting photocopies and oral testimonies) in birth registration processes? What happens if the parent(s) do not have any documentation of their own civil status?

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1. Is late registration (after the statutory deadline) of births possible? Are there additional procedures, fees or fines?

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1. Is there a procedure for registering the birth of a child in the absence of proof of the exact place, time or date of birth (in the case of births on migration routes, for example)? If so, does this procedure depend on the residence status of the child or the parents? If not, does the State provide documents for these children?

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1. Are the children of refugees or migrants who do not meet the conditions of proof or residence registered in the ordinary civil register (or in another form of registration)?

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1. Is the information of both parents recorded in the birth certificate in all cases (including when the parents are not married or in the case of LGBTIQ\* families)?

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1. Does birth registration also include a mention of the child’s nationality? If so, how is this nationality determined (based on the mother’s or father’s nationality, the nationality of the state where the registration takes place, on the parents’ declaration, etc.)?

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1. Is there a possibility for civil servants not to share information on children without residence status with the immigration authorities?

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1. Awareness-raising and training of relevant actors
2. What kind of training and awareness raising is provided for migration officials, civil servants responsible for registering asylum seekers, refugees and migrants, civil registrars, guardians, and judges on nationality and statelessness? Are you aware of such training and awareness raising provided to non-state actors or private actors?

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1. Do your authorities raise awareness on the causes and consequences of statelessness and provide information on common profiles of stateless persons in Europe among officials called upon to deal with statelessness? If so, how?

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