

Universal Periodic Review

All country summary and recommendations

related to the right to a
nationality and the rights of
stateless persons

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This document highlights the **statelessness** related challenges in states that will be reviewed during the 38th Session of the Universal Periodic Review (UPR): **Belgium, Denmark, Estonia, Latvia, Mozambique, Namibia, Niger, Palau, Paraguay, Seychelles, Sierra Leone, Singapore, Solomon Islands, Somalia**. The issues raised in this summary include gender and racial discrimination in nationality laws, arbitrary deprivation of nationality and the child's right to acquire a nationality. All recommending states are urged to draw on this document when formulating recommendations to States under review. In addition to this summary, the Institute on Statelessness and Inclusion (ISI) and its partners made joint submissions on human rights and statelessness issues in [Belgium](#), [Denmark](#), [Latvia](#), and [Somalia](#).

Belgium

Belgium is a party to the 1954 Convention on the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. In 2019, 926 people were deemed to be stateless, and 19,644 people were registered as "undetermined nationality". As the stateless population has never been comprehensively mapped in Belgium, it is difficult to state how many persons are indeed stateless. Belgium has a judicial procedure through which statelessness can be determined, however, there are no specific procedural safeguards nor legislation on statelessness determination, including which rights a stateless person is entitled to. Belgian nationality law contains safeguards to prevent statelessness in the case of foundlings and adopted children. However, the foundlings provision only applies to new-borns, and there may be a risk of statelessness in the adoption process due to rules on loss and acquisition of Belgian nationality. Belgium also has a reservation on Article 2 of the 1961 Statelessness Convention, as it considers that the category of "foundlings" concerns children who are believed to be new-born. The Belgian Nationality Code provides for deprivation of nationality on grounds of serious violations of duties and conviction of serious crimes of naturalised citizens. The application of such deprivation cannot be requested for birth right citizens or citizens who acquired the nationality from (one of their) parents and cannot result into statelessness. This means that deprivation of nationality is in fact discriminatory, targeting those with a migrant heritage who are more likely to belong to ethnic, religious and linguistic minorities.

Proposed recommendations:

1. Develop a dedicated statelessness determination procedure and protection status in law. Ensure that the procedure is fair, effective and accessible to all persons in Belgium regardless of their legal status.
2. Amend the Belgian Nationality Code to remove any risk of statelessness arising in adoption procedures and bring provisions on foundlings and deprivation of nationality in line with the 1961 Convention.
3. Protect everyone's right to a nationality, and amend national laws to comply with international obligations which prohibit the arbitrary deprivation of nationality and discrimination, while ensuring the avoidance of statelessness.

Denmark

Statelessness in Denmark occurs predominantly in a migratory context, and affects predominately children born *en route* to Europe, children from countries with large stateless populations or children who cannot inherit a nationality from their parents. Stateless persons born in Denmark and between the ages of 18 and 21 are entitled to Danish nationality if they have habitual residence in Denmark, while stateless children aged 0-17 years must have a **lawful and habitual** residence in Denmark in order to be eligible for Danish nationality, leading those who do not currently hold a valid residence permit to be denied the right to acquire Danish nationality and remain stateless. Additionally, Danish law is in violation of the CRC (Art.2, 3,7 & 8) as it prohibits children who would otherwise be stateless from acquiring a nationality because their parents failed to renew their children's resident permits. According to Danish law, children born to a Danish parent who has unlawfully entered or stays in a 'conflict zone' will not acquire Danish nationality by birth, disregarding international human rights law and principles of nationality law. It remains uncertain whether statelessness will be prevented in practice. Women who cannot pass on their nationality based on the nationality laws of their country of origin. Danish authorities may have failed to identify their statelessness as children are being registered under the mother's nationality. Denmark has acceded to the 1954 and to the 1961 Statelessness Convention. According to national statistics, there currently are 8,451 stateless persons in Denmark, of which 2,407 are children below the age of 19.

Proposed recommendations:

1. Provide for the automatic granting of nationality to all otherwise stateless children born in Denmark or establish that applications made by all stateless persons are conditional upon habitual residence not exceeding five years, rather than lawful residence.
2. Grant nationality to the children who are born in Denmark to mothers who are not allowed to pass on their nationality to their children, if determined that they would otherwise be stateless after an adequate assessment of their nationality status.
3. Amend the Danish Citizenship Act to remove any discriminatory clauses, including provisions affecting the right to nationality of children born to parents in conflict zones.

Estonia

Estonia has not ratified the 1954 and 1961 Statelessness Conventions. In 1991, when Estonia regained its independence, citizenship was extended only to the citizens of the pre-war Estonia and their descendants¹. As a result, as much as a third of Estonia's population (the Soviet-era settlers) became stateless, including many who were born and had lived since birth in Estonia. In 2019, there were 75,559 stateless individuals in Estonia.² Estonia's new nationality law pursued a strict *jus sanguinis* based approach, restoring citizenship to those who were Estonian prior to the country's incorporation into the Soviet Union and their descendants. Others could apply for naturalisation, but the process was cumbersome. In Estonia, those left stateless in the wake of state succession are known as 'persons with undetermined citizenship' and hold a special status under domestic law but not all of the rights and entitlements that Estonian nationals hold are extended to this population. In 2015, Estonia amended its Citizenship Act, which regulates the automatic acquisition of nationality for children who would otherwise be stateless, if the parents are stateless and meet the residence criteria.³ Despite this amendment, particularly children still remain at risk of becoming stateless as the provision only applies to children born in Estonia to parents that have no other nationality (excluding parents with a citizenship, unable to pass theirs on to their child) and that have resided in Estonia for a minimum of five years by the time their child is born.

Proposed recommendations:

1. Accede to the 1954 and the 1961 Statelessness Conventions.
2. Enact legislation to guarantee the right to acquire Estonian nationality for all stateless children born in Estonia, regardless of the residence or citizenship status of the parents.
3. Establish a statelessness determination procedure to ensure that protection is provided to stateless persons whose situation is not regulated by those measures relating to the "persons of undetermined citizenship".

Latvia

Latvia acceded to the 1954 and 1961 Statelessness Conventions, however, with reservations to Article 24.1(b) of the 1954 Convention regarding social security for stateless persons lawfully in the country and Article 27 of the 1954 Convention on issuing identity papers to stateless persons. In 2019, the UNHCR estimated that there are 169 stateless persons under Latvian Law on Stateless Persons, as well as 216,682 'non-citizens', which Latvian law identifies as former USSR citizens. Under Latvian law, 'non-citizens' are excluded from the definition of 'stateless person', although they are stateless under the definition of international law. They are considered to be a separate legal category of persons who enjoy significant sets of rights such as the possibility to naturalise, but they are not entitled to 'equivalent rights' to Latvian nationals. Latvia has established a statelessness determination procedure, however procedural gaps exist such as, the lack of protection and rights during the procedure, and a lack of a facilitated route to naturalisation for people recognised as stateless. No comprehensive mapping study of statelessness in Latvia is available, and the reliability of data on statelessness is questionable as numbers vary depending on the definitions employed by different actors. Stateless persons face a higher risk of arbitrary detention when procedural safeguards to identify and determine statelessness and related barriers to removal are lacking. A new law was adopted establishing that children born in Latvia after 1 January 2020 to 'non-citizen' parents automatically acquire Latvian nationality. However, none of the legal options cover all otherwise stateless children born in the territory.

Proposed recommendations:

1. Improve data collection on stateless persons and those at risk of statelessness in Latvia, harmonise data collection categories, and publish reliable disaggregated data on the stateless population.
2. Amend the Citizenship Law to introduce full legal safeguards to protect every child's right to a nationality and prevent childhood statelessness in all cases in line with international obligations under the CRC and 1961 Convention.
3. Take steps to improve the identification of statelessness prior to issuing a removal or detention order and consider statelessness as a juridically relevant fact in return and detention decisions, in order to prevent arbitrary (immigration) detention of stateless people.

Mozambique

Mozambique has ratified the 1954 and to the 1961 Statelessness Conventions. It is also a party to human rights instruments that contain relevant references to nationality, such as the CRC and CERD. There are no official statistics on the number of stateless people in Mozambique. According to the UNHCR "*the main causes of statelessness in Mozambique are legal gaps, the lack of implementation of guidelines from the central level, low [birth] registration rates and lack of documentation combined with long-term migration patterns*".⁴ Further, Mozambicans living abroad lacking documentation encounter difficulties in establishing their children's nationality, not in line with the 2004 Constitution which allows children born abroad to a Mozambican father or mother to acquire Mozambican nationality if they declare their intention of becoming a national before

¹ Joint Submission to the Human Rights Council at the 38th Session of the Universal Periodic Review, Estonia, Legal Information Centre for Human Rights, European Network on Statelessness and Institute on Statelessness and Inclusion, available at: <https://files.institutesi.org/EstoniaUPR2015.pdf>

² <https://www.unhcr.org/5ee200e37.pdf>

³ The World's Stateless children, Institute on Statelessness and Inclusion, p.88, January 2017

⁴ UN High Commissioner for Refugees (UNHCR), UNHCR Submission on Mozambique: UPR 24th Session, June 2015, available at: <https://www.refworld.org/docid/5a12da030.html> [accessed 13 May 2021] p.7

the age of 22.⁵ In 2019, the CRC urged the State to take measures to determine the number of stateless children in the State party, for example, the kinds of children who are stateless, why they are stateless and what legislation and policies prevent them from acquiring a nationality⁶.

Proposed recommendations:

1. Enact further legislation in line with the 2004 Constitution and the Statelessness Conventions;
2. Establish a statelessness determination procedure and conduct and make publicly available, mapping studies and data collection on citizenship and statelessness.
3. Ensure access to birth and civil registration, particularly by simplifying procedures, strengthening access through, inter alia, the usage of mobile registration units and raising awareness.

Namibia

Namibia is not party to the 1954 nor the 1961 Convention on Statelessness. There are no official statistics on the number of stateless people in Namibia. In both UPR cycles, Namibia received recommendations on acceding to the Statelessness Conventions as well as on ensuring birth registration. The 1990 Constitution includes protection against statelessness for children born in the territory, but this is not a full safeguard to avoid childhood statelessness as the parents are required to be ordinarily resident.⁷ In 2012, CRC noted that the State party's legislation on nationality is silent on the issue of granting nationality to children who are found in Namibia but whose parents are unknown.⁸ Increased risks of statelessness particularly exist for orphan children born on Namibian territory to Angolan parents, leaving them unregistered and without identity documentation.⁹ Furthermore, children can be subject to derivative loss of nationality if the parent renounces their Namibian citizenship and the other parent is not a Namibian citizen.¹⁰ If the child resides in Namibia they may resume Namibian citizenship by making a declaration of this wish **only** within one year after reaching age 18, leaving children in protracted situations of statelessness.¹¹

Proposed recommendations:

1. Accede to the 1954 and 1961 Conventions.
2. Align the provisions of the nationality law with international human rights standards so as to enable children born in the territory of Namibia whose parents are unknown to acquire nationality of Namibia.
3. Ensure that the law on deprivation of Namibian citizenship is in line with international standards on the prevention and reduction of statelessness.

Niger

Niger has ratified the 1954 Statelessness Convention, and the 1961 Statelessness Convention with reservations pertaining to Article 11, 14 and 15. Niger is also a member of the ECOWAS Banjul Plan of Action which includes the establishment of identification/protection mechanisms for stateless migrants and the issuance of nationality documents to those who are entitled to it. Currently, Niger is adopting a National Action Plan to fight statelessness. There are no official statistics on the number of stateless people in Niger. According to a UNHCR study in 2015, about 80% of the population in the Diffa Region in Niger did not have any civil documentation, and 61% (ca. 8,100 individuals) was identified as at risk of statelessness.¹² Due to lack of documentation, people of Nigerien origin fleeing Nigeria to Niger may be at risk of statelessness despite qualifying for Niger nationality.¹³ Moreover, no dedicated statelessness identification and determination procedure are in place nor a safeguard to ensure that all otherwise stateless children in the territory can acquire the Niger nationality.

Proposed recommendations:

1. Ensure that birth registration procedures are simplified and universally implemented to facilitate the documentation of all children born on territory.
2. Protect and fulfil the right to acquire a nationality of all children born in the territory who are otherwise stateless, regardless of where their parents were born, and bring domestic nationality legislation.
3. Establish a formal statelessness identification and determination procedure.

⁵ Patrícia Jerónimo, Report on Citizenship Law: Mozambique, Global Citizenship Observatory (GLOBALCIT), Robert Schuman Centre for Advanced Studies in collaboration with Edinburgh University Law School, p.28-30

⁶ Concluding observations on the combined third and fourth periodic reports of Mozambique, 2019, available at: <https://undocs.org/CRC/C/MOZ/CO/3-4>

⁷ <http://citizenshiprightsafrika.org/region/namibia/>.

⁸ Concluding observations on the consolidated second and third periodic reports of Namibia, adopted by the Committee at its sixty-first session, 2012, available at: <https://undocs.org/CRC/C/NAM/CO/2-3>

⁹ Paragraph 39, Report of the Special Rapporteur on Extreme Poverty and Human Rights: Mission to Namibia, 17 May 2013, A/HRC/23/36/Add.1.

¹⁰ UN High Commissioner for Refugees (UNHCR), UNHCR Submission on Namibia: UPR 24th Session, June 2015, available at: <https://www.refworld.org/docid/5a12da042.html>

¹¹ Dianne Hubbard, Report on Citizenship Law: Namibia, Global Citizenship Observatory (GLOBALCIT), Robert Schuman Centre for Advanced Studies, in collaboration with Edinburgh University Law School, January 2021

¹² UNHCR, Statelessness Highlights in Niger, March 2019, available at: <https://reliefweb.int/sites/reliefweb.int/files/resources/68726.pdf>

¹³ UN High Commissioner for Refugees (UNHCR), UNHCR Submission on Niger: UPR 24th Session, June 2015, available at: <https://www.refworld.org/docid/5a12da060.html>

Palau

Palau is not a state party to the 1954 nor to the 1961 Statelessness Conventions. There are no official statistics on the number of stateless people in Palau.

Proposed recommendations:

1. Accede to the 1954 and 1961 Statelessness Conventions, and take all steps necessary to implement their content

Paraguay

Paraguay has acceded to the 1954 and 1961 Statelessness Conventions. In 2020, the UNHCR noted its advocacy efforts “for the implementation of the national law for the protection of stateless persons and the establishment of a statelessness determination procedure in line with the pledges made by the Government of Paraguay including those under the 2014 Brazil Plan of Action”.¹⁴

Proposed recommendations:

1. Continue with its efforts to establish and implement the statelessness determination procedure and ensure the protection of stateless persons.
2. Ensure that all children born on territory are registered at birth regardless of the status of their parents.

Seychelles

Seychelles is not party to the 1954 and 1961 Statelessness Conventions. There are no official statistics on the number of stateless people in Seychelles. There are no safeguards for children born on territory who would otherwise be stateless to acquire nationality.¹⁵ In 2018, the CRC noted the lack of safeguards against statelessness for children of unknown parents and urged the State to “introduce legal safeguards for children in the State party who would otherwise be stateless, in line with article 6 of the African Charter on the Rights and Welfare of the Child, and consider ratifying the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness”.¹⁶ As also noted by the CRC, Seychelles does not have any provision in place to provide the Seychellean nationality to children born to unknown parents or abandoned by their parents on the territory. Regarding citizenship acquisition, Seychelles no longer provides the option of acquiring Seychellean citizenship based on being born on territory, despite this being the case previously. For children born outside of Seychelles, gender discriminatory laws still apply for individuals born between 1976 and 1979.¹⁷

Proposed recommendations:

1. Ratify the 1954 Convention and the 1961 Statelessness Conventions.
2. Introduce legal safeguards for children born in the country who would otherwise be stateless.
3. Remove gender discriminatory provisions from the nationality law.

Sierra Leone

Sierra Leone is party to the 1954 and the 1961 Statelessness Conventions. There are no official statistics on the number of stateless people in Sierra Leone. Since the adoption of the Abidjan Declaration on the Eradication of Statelessness by the Economic Community of West African States (ECOWAS), Sierra Leone has abolished gender discrimination from its laws on nationality, which previously prevented women from passing on their nationality to their children on an equal basis as men.¹⁸ Sierra Leone’s 1973 Citizenship Act was amended in 2006 to allow mothers to confer their citizenship to their children at birth in the territory. In 2017, this was extended to children born outside the country.¹⁹ However, women still cannot pass their citizenship to their foreign husbands or adopted children. Moreover, foundlings born on territory to unknown parents face increased risks of statelessness as there is no provision that grants them automatic citizenship by birth. Sierra Leonean nationality law is also discriminatory on grounds of race, as only a parent who is of “Negro African descent” can transmit their nationality.²⁰

Proposed recommendations:

1. Repeal the gender discriminatory provisions in the Sierra Leonean nationality law, which prevents women from conferring their nationality to their foreign husbands or adopted children, to bring the law into compliance with international human rights standards, including CRC Article 7 and CEDAW Article 9.
2. Repeal the race discriminatory provisions in the Sierra Leonean nationality law to bring it in line with international human rights standards, including CERD Article 5(d)(III) and CRC Articles 2 and 7.
3. Accede to and take all steps necessary to implement the 1954 and the 1961 Statelessness Conventions.

¹⁴ UNHCR, Paraguay Factsheet, 2020, available at: <https://www.acnur.org/5f938a1e4.pdf>

¹⁵ UN High Commissioner for Refugees (UNHCR), Seychelles: UNHCR Submission for the Universal Periodic Review - Seychelles - UPR 38th Session (2021), October 2020, available at: <https://www.refworld.org/docid/607605ab4.html> [accessed 14 May 2021] p.4

¹⁶ Concluding observations on the combined fifth and sixth periodic reports of Seychelles, <https://undocs.org/CRC/C/SYC/CO/5-6>

¹⁷ UN High Commissioner for Refugees (UNHCR), Citizenship and Statelessness in the Member States of the Southern African Development Community, December 2020, available at: <https://www.refworld.org/docid/6012a0d44.html> [accessed 14 May 2021] p.3

¹⁸ <https://reliefweb.int/report/world/five-years-abidjan-declaration-west-africa-leads-reduction-statelessness-africa>

¹⁹ <http://citizenshiprights-africa.org/sierra-leone-parliament-enacts-into-law-the-citizenship-amendment-act-2017/>

²⁰ <https://www.migrationpolicy.org/article/who-belongs-statelessness-and-nationality-west-africa>

Singapore

Singapore is not party to the 1954 Statelessness Convention nor to the 1961 Statelessness Convention. According to 2019 UNHCR statistics, there are 1,303 stateless persons in Singapore.²¹ In 2004, the Singaporean Constitution was amended to allow for women to pass on their nationality to their children who were born abroad. This amendment is however only applicable to children born after the 2004 amendment, thus rendering children born before the amendment at risk of statelessness. In 2019, the CRC urged Singapore to take measures to ensure that mothers can transfer their Singaporean citizenship to their children, including to children born before 2004; consider amending article 122 of the Constitution to ensure that no child is, or becomes, stateless; consider ratifying the Statelessness Conventions.²²

Proposed recommendations:

1. Review legislation to ensure that all persons born to Singaporean mothers, including those born before 15 May 2004, can acquire citizenship.
2. Provide for the automatic granting of nationality to all otherwise stateless children born in Singapore.
3. Ratify the 1954 and 1961 Statelessness Conventions.

Solomon Islands

The Solomon Islands have not acceded to the 1954 nor to the 1961 Statelessness Convention. There are no official statistics on the number of stateless people in the Solomon Islands. In both UPR cycles, Seychelles received recommendations on acceding to the Statelessness Conventions as well as ensuring birth registration.²³ CEDAW expressed its concern about the gender discriminatory provisions in the 1978 Citizenship Act and urged the State to repeal them. Foreign women married to a national who should renounce their nationality and may only apply for Solomon Islands nationality after two years of marriage with the consent of their husband. Also women cannot transmit their nationality to jointly adopted children, and that women cannot apply on behalf of their children for acquisition of nationality through naturalization.

Proposed recommendations:

1. Repeal the gender discriminatory provisions of the nationality law of the Solomon Islands, to bring the law into compliance with international human rights standards, including CRC article 7 and CEDAW article 9, and ensure effective implementation of the law.
2. Take all steps necessary to ratify and implement the 1954 and 1961 Statelessness Conventions.

Somalia

Somalia is not a signatory to the 1954 Statelessness Convention nor to the 1961 Statelessness Convention. There is no accurate data on the estimated number of stateless persons in Somali. No sustainable or effective systems of identification and documentation are in place increasing the risk of statelessness. Nationality is based on the Somali tradition of lineage through the father and is gender discriminatory.²⁴ The law also discriminates on the basis of ethnicity providing that acquisition of citizenship is conditional upon, inter alia, the father being of Somali origin (*belonging to the Somali Nation*), which also increases the risk of statelessness for people in protracted forced displacement situations and minority communities perceived as not belonging.²⁵ In 2018 the government rolled out a biometric National Identity Program. However, without first addressing the legal framework for nationality, biometric identity systems risk worsening lack of legal identity, and can create stateless persons where previously there were only undocumented ones. Somalia's nationality law also lacks adequate safeguards to ensure that children who would otherwise be stateless can acquire Somali nationality. Regarding the de facto state of Somaliland, persons born and living in Somaliland may be considered citizens of the de facto state however, the status of citizenship is not internationally recognised by any recognised state and may not grant the individual international protection. This makes the citizens of de facto states at risk of statelessness, especially if they (willingly or unwillingly) do not have another nationality (e.g. the nationality of the parent state, in this case Somalia).

Proposed recommendations:

1. Reform the Citizenship Law without delay to remove provisions that discriminate on the basis of gender and uphold women and men's equal right to acquire, change, retain and confer nationality on children and spouses, including by immediately passing the Citizenship Bill.
2. Ensure that the biometric National Identity Program is not rolled out without adequate scrutiny of the underlying identification mechanisms, which can result in leaving vulnerable groups lacking legal identity further behind and leaving them at increased risks of statelessness.
3. Collaborate and where needed amend Citizenship legislation to avoid (risks of) statelessness and resolve statelessness both in Somalia and Somaliland and ratify the 1954 and 1961 Statelessness Conventions.

²¹ UNHCR, Global Trends, Forced Displacement, 2019, available at: <https://www.unhcr.org/statistics/unhcrstats/5ee200e37/unhcr-global-trends-2019.html>.

²² Concluding observations on the combined fourth and fifth periodic reports of Singapore, 2019, available at: <https://undocs.org/CRC/C/SGP/CO/4-5>.

²³ <https://database.institutesi.org/>

²⁴ Article 2, Law No. 28 of December 1962, available at: <http://citizenshiprightsafrika.org/wp-content/uploads/1962/12/Somalia-Citizenship-Law1962-full.pdf>.

²⁵ Article 2 -3 1962 Somali Citizenship Law