

THE COMMITTEE ON THE RIGHTS OF THE CHILD 74th Session (16 January – 3 February 2017)

ESTONIA

Additional information for the consideration of the Committee on the right of every child to acquire a nationality under Article 7 CRC

15 December 2016

1. The Institute on Statelessness and Inclusion (the Institute)¹ and European Network on Statelessness (ENS)² welcome the opportunity to submit additional information for the consideration of the Committee on the Rights of the Child regarding Estonia's compliance towards every child's right to acquire a nationality under Article 7 CRC.
2. In the previous state party review for Estonia (CRC/C/15/Add.19), the Committee expressed concern regarding the situation for children of stateless parents whose parents' status negatively impact on their "integration into Estonian society" (para. 29). The Committee recommended, amongst other things, that the state party "Reduce the number of stateless children by, inter alia, expediting and improving the procedure of naturalization" (para. 29(a)) and accede to the 1961 and 1954 Statelessness Conventions (para 29(f)).
3. In light of the Committee's previous recommendations, recommendations in other UN fora³ and the Government's own commitment to solving statelessness⁴, the Institute and ENS made a civil society submission to the Committee (ISI/ENS Submission) on 31 October 2015.⁵ The ISI/ENS submission highlighted the problems in the realisation of the right of every child to

¹ The Institute on Statelessness and Inclusion is an independent non-profit organization committed to promoting the human rights of stateless persons and fostering inclusion to ultimately end statelessness. Addressing childhood statelessness is one of the core thematic priorities of the Institute. See further: www.institutesi.org.

² The European Network on Statelessness is a civil society alliance of NGOs, academic initiatives and individual experts committed to addressing statelessness. With 103 members in 39 European countries, the Network's current thematic priority is ending childhood statelessness in Europe, including through its #StatelessKids campaign. See further www.statelessness.eu.

³ In March 2011, Estonia accepted the recommendation made by Ecuador, during the first UPR cycle, to "Resolve the problem of persons without citizenship, and prevent such cases from arising in the future", See also: CERD/C/EST/CO/10-11, 22 September 2014 and CAT/C/EST/CO/5, 17 June 2013.

⁴ Combined second, third and fourth state party reports, CRC/C/EST/2-4, April 2013.

⁵ Institute on Statelessness and Inclusion and European Network on Statelessness, 31 October 2015, Civil Society Submission on the right of every child to acquire a nationality under Article 7 CRC, available at: http://www.institutesi.org/CRC_Estonia_2015.pdf

acquire a nationality and the avoidance of childhood statelessness in Estonia. As of 2014 there were still 89,533 stateless persons in Estonia, including 936 children born in the country.⁶

4. As the ISI/ENS Submission notes, Estonia's commitment to solving statelessness led to an amendment to the Citizenship Act which has since entered into force as of 1 January 2016. Article 13(4), of the Act now provides as follows:

A child under 15 years of age, who was born in Estonia, will acquire Estonian citizenship by naturalization starting from the time of his or her birth, if his or her parents or a single parent have been legally residing in Estonia for at least five years by the time of birth of the child and they are not considered as citizens by any other State on the basis of any legal act in force.

5. Encouragingly, the new law provides for automatic acquisition of nationality for stateless children if certain conditions are met, however concerns remain regarding the conditional nature of the new law which leaves certain children at risk of becoming stateless in Estonia⁷.
6. Since the ISI/ENS Submission, Human Rights Watch has made a submission to the CRC Plenary Session⁸ raising similar questions concerning gaps in the new citizenship law as it applies to children at risk of statelessness.
7. In the List of Issues adopted by the Committee (CRC/C/EST/Q/2-4), the issue of the child's right to a nationality is not raised. As a result, nor does it feature in the state party's reply to the List of Issues (CRC/C/EST/Q/2-4/Add.1).
8. ISI and ENS would like to take this opportunity to request that the Committee nevertheless address the issue of the child's right to a nationality in its dialogue with the state party during the forthcoming Committee session. In line with the previous ISI/ENS Submission we would like to take this opportunity to request the Committee to seek further information and clarification from Estonia on the following:

- I. Why do certain categories of otherwise stateless children continue to be excluded from the acquisition of Estonian nationality?**

The Citizenship Act at Article 13(4) (quoted above) does not provide for access to citizenship for a child whose parent(s) have citizenship of another country, but who is stateless because the parent(s) are unable to transmit this citizenship to the child. Stateless children born in Estonia whose parents do not meet the requirement of at least 5 years lawful residence prior to the birth of the child are similarly left without means to acquire nationality.

When the new law came into force on 1 January 2016, its retroactive application was limited to children under the age of 15. All persons older and born on the territory, including stateless children aged between 15 and 18 years, will remain excluded from

⁶ UNHCR, Mid-Year Trends 2014; Explanation note to the amendment to the Citizenship Act (nr737), available at: <http://www.riigikogu.ee/download/ab5f780c-3b11-4bb3-8f5b-d819ec8deaa4/ab5f780c-3b11-4bb3-8f5b-d819ec8deaa4>.

⁷ See the full ISI/ENS Submission for full analysis of how gaps in the law leave certain children at risk of statelessness and possible problems arising in the implementation of the new law

⁸ Human Rights Watch, CRC Plenary Session on Estonia, 21 November 2016, Available at: http://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/EST/INT_CRC_NGO_EST_25899_E.pdf

acquiring nationality. Consequently not all 936 children born in Estonia who currently are stateless will benefit.

- II. What plans does the government have to address the situation of children who are stateless but who fall outside the new legislation (either due to age or due to parents' nationality)?⁹**
- III. Has retroactive application of the Citizenship Act been automatic with respect to stateless children or are children required to follow a procedure, and what measures are being taken to ensure effective implementation of the law?**
- IV. What are the exact differences in rights and duties attached to these different categories arising in the new Citizenship Act? Will the Government reconsider the granting of an apparently more precarious form of citizenship to stateless children born on the territory?**

In accordance with the new law, the children of stateless parents will continue to acquire "citizenship by naturalisation" which appears to be a distinct category of citizenship under the Estonian Citizenship Act. Children of Estonian nationals receive "citizenship by birth". According to the state party's report, "no one may be deprived of Estonian citizenship acquired by birth", while citizenship by naturalisation may be deprived on a number of grounds.

- V. Will the state protect the child from the consequences of statelessness in situations where the parent decides to opt out of the law as Article 13(4) provides?**
- VI. Will the Government accede to the 1954 Convention Relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness and the European Convention of Nationality?**

⁹ Human Rights Watch has also suggested to the Committee that this question be raised. See Human Rights Watch, CRC Plenary Session on Estonia, 21 November 2016, http://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/EST/INT_CRC_NGO_EST_25899_E.pdf