Institute on Statelessness and Inclusion

24th Session of the Universal Periodic Review

All country summary and recommendations related to the right to a nationality and the rights of stateless persons

The Institute on Statelessness and Inclusion (the Institute) is an independent non-profit organisation committed to addressing statelessness and disenfranchisement globally through the promotion of human rights, participation and inclusion. Engaging in the Universal Periodic Review (UPR) process is central to the Institute's human rights strategy. For the 24th Session of the UPR, the Institute made a dedicated submission on Estonia. This additional document highlights the statelessness related human rights challenges in all states under review at the 24th Session of the UPR. These include challenges related to: ***the right of every child to acquire a nationality, the right of every woman to acquire, retain and transfer nationality on an equal basis with men,*** *and* ***the right of every person to not be arbitrarily deprived of their nationality.*** *All states are urged to draw on this document when formulating recommendations to states under review.*

Denmark

Denmark is commended for recent progress made through amending its nationality act by which discrimination against children born out of wedlock was removed from the law in 2014 and discrimination against people with long-term disabilities in relation to naturalisation was removed from the law in 2013. Denmark is a state party to the UN statelessness conventions and has a safeguard by which otherwise stateless children who are born in the territory are granted nationality. However, this safeguard is limited in scope as it also includes a legal residence requirement, which is contrary to the UN Convention on the Rights of the Child (CRC) as interpreted by its Committee.

Recommendation:

1. Amend the safeguard which grants Danish nationality to otherwise stateless children born on the territory to ensure that *all* such children are protected from statelessness, regardless of their residence status.

Estonia

Estonia is commended for recently amending its Citizenship Act to allow children born in Estonia to parents with "undetermined citizenship" to acquire "citizenship by naturalisation" immediately and automatically after birth. The amendment will retroactively apply to children under the age of 15. However, only children whose parents had legally lived in the country for at least five years prior to their birth are eligible for citizenship according to the amended law. Furthermore, parents reserve the right to refuse nationality for their child within one year of the child's birth. "Undetermined citizenship" is the status that was given to the people in Estonia who became stateless following the dissolution of the USSR, denying tens of thousands of people in Estonia the right to acquire a nationality for decades. Despite being much welcomed, the amendment does not fully resolve statelessness in the country. Statelessness remains a threat for children whose parent(s) have citizenship of another country but are unable to transmit this citizenship to their child. Otherwise stateless children born in Estonia whose parents do not meet the 5 year legal residence requirement are similarly excluded, as are all persons over the age of 15, who do not benefit from the retroactive application of the new law. It is furthermore unknown whether the retroactive effect will be automatic as of 15 January 2016 – when the law becomes operational - or if it requires children to follow a procedure in order to access citizenship. Furthermore, it is unclear as to whether there is a qualitative difference between "citizenship by naturalisation" granted in accordance with the 2016 amendment, and "citizenship by birth". Parents' views and actions in relation to their child's nationality acquisition will moreover remain a potential source of statelessness due to the one-year period of refusal of nationality. Finally, Estonia has not yet to acceded to the 1954 Convention Relating to the Status of Stateless Persons (1954 Convention) and the 1961 Convention on the Reduction of Statelessness (1961 Convention).

Recommendations:

1. Amend the safeguard of 15 January 2016 which grants Estonian nationality to otherwise stateless children born in the territory to include *all* children who would otherwise be stateless, regardless of the citizenship and residence status of the parents.
2. Clarify the process of the retroactive application of the amended Citizenship Act and extend retroactive application to those above 15 years of age.
3. Clarify if there are any differences between citizenship by naturalisation and citizenship by birth and ensure that those who obtain citizenship by naturalisation are not discriminated against.

4. Promote and disseminate knowledge on the importance of nationality to encourage parents not to refuse the grant of nationality to their children.
5. Accede to and take all steps necessary to implement the 1954 and 1961 Statelessness Conventions.

Latvia

Latvia has the largest stateless population in Europe, with hundreds of thousands of people having been denied the right to nationality in Latvia for decades after the dissolution of the USSR. These "non-citizens" are granted permanent residence status which falls short of citizenship and the rights associated with it. However, Latvia is a state party to the UN statelessness conventions and is commended for progress made through an amendment to its nationality that was passed in 2013, thereby allowing just one parent to make an application for Latvian nationality on behalf of their child(ren), instead of requiring the consent of both parents. This amendment however only applies to children born in the territory and whose both parents are "non-citizens" or stateless persons, thereby excluding children who are unable to acquire a nationality at birth for other reasons, such as where either or both parent(s) have a nationality but are unable to transfer that nationality to their child. Moreover, the parents need to hold permanent residence in Latvia in order to make an application on behalf of their stateless child. Children furthermore have to be under the age of 15 years. Children can submit an independent application between the ages of 15 and 18, although this is subject to additional conditions.

Recommendation:

1. Protect and fulfil the right to acquire a nationality for *all* children born in the territory, regardless of the citizenship and residence status of the child's parent(s) and bring domestic nationality legislation into compliance with Latvia's obligations under the 1961 Convention and the CRC.

Namibia

According to the Committee on the Rights of the Child, Namibia does not grant its nationality to children found in Namibia but whose parents are unknown, putting these children at risk of statelessness. Namibia is also not party to the UN statelessness conventions.

Recommendations:

1. Amend the nationality law to provide nationality to children born in the territory whose parents are unknown to bring into compliance with international human rights standards.
2. Accede to and take all steps necessary to implement the 1954 and 1961 Statelessness Conventions.

Niger

Niger is commended for recently acceding to the 1954 Convention. It is also party to the 1961 Convention. Children born in Niger however are at risk of statelessness due to non-recognition following a lack of formal registration at birth. According to the Committee on the Rights of the Child, birth registration related challenges include the low performance of civil registration services, delayed compensation of registration officers and a lack of registration centres in rural areas. This particularly impacts on the registration and recognition of the children of vulnerable groups living in Niger, exposing them to the risk of becoming stateless. Niger moreover lacks an adequate safeguard to grant nationality to children born in the country who would otherwise be stateless. The present double jus soli provision, only grants nationality to children born in Niger to parents who were also born in the country, and is contrary to Niger's obligations under the 1961 Convention and the CRC.

Recommendations:

1. Ensure that birth registration procedures are simplified and universally implemented to facilitate the documentation of *all* children born in the territory, including children of vulnerable groups and children living in rural and remote areas, so that all children are able to confirm their nationality.
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 into compliance with Niger's obligations under the 1961 Convention and the CRC.

Sierra Leone

Sierra Leone is commended for the positive steps it took in 2006 to reduce gender discrimination in its nationality laws and the government's renewed commitment to nationality law reform in its March 2014 report to the CEDAW Committee. However, gender discrimination remains in the Sierra Leonean Citizenship Act, as section 7 only refers to foreign women married to Sierra Leonean male citizens for the purpose of naturalisation, and not to foreign men married to Sierra Leonean female citizens. Foreign men are thus denied access to their Sierra Leonean spouses' nationality. Secondly, Sierra Leonean mothers can only transmit nationality to their children that are born abroad if the child would otherwise be stateless. 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. Sierra Leone is also not party to the UN statelessness conventions.

Recommendations:

1. Repeal the gender discriminatory provisions in the Sierra Leonean nationality law, which prevents women from conferring their nationality to all children born abroad and from passing their nationality to their spouses, 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 1961 Statelessness Conventions.

Singapore

Despite positive amendments that now allow women to transfer Singaporean nationality to their children on an equal basis as men, children that were born before the entry into force of this amendment (15 May 2004) cannot claim citizenship through their mother. Furthermore, under Singaporean law, it is possible for the state to deprive citizens of their nationality under specific circumstances, even if this results in their statelessness. Singapore is also not party to the UN statelessness conventions.

Recommendations:

1. Amend the law with a view to ensure that citizens cannot be arbitrarily deprived of their nationality and rendered stateless.
2. Retroactively implement the 2004 amendment to the nationality act so that that all persons born to Singaporean mothers, including those born before 15 May 2004, can acquire citizenship.
3. Accede to and take all steps necessary to implement the 1954 and 1961 Statelessness Conventions.

Solomon Islands

According to the Committee on the Elimination of all forms of Discrimination Against Women, the nationality law of the Solomon Islands is gender discriminatory in that the acquisition and loss of nationality based on marital status only applies to women. Moreover, only male spouses may apply for acquisition of nationality through naturalisation on behalf of their children and transmit their nationality to jointly adopted children. The Solomon Islands is also not party to the UN statelessness conventions.

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. Accede to and take all steps necessary to implement the 1954 and 1961 Statelessness Conventions.

Somalia

Somali nationality law is gender discriminatory. While there are no barriers to Somalian men transmitting their nationality to their children, Somali women are unable to pass on nationality as Article 2 of the Citizenship Law of Somalia only provides nationality through paternal descent. Furthermore, Somalia is not party to the CEDAW or the UN statelessness conventions.

Recommendations:

1. Repeal the discriminatory provisions in the nationality law of Somalia that prevent women from transmitting nationality to their children on an equal basis with men, to bring the law into compliance with international human rights standards, including CRC article 7.
2. Accede to and take all steps necessary to implement CEDAW and the 1954 and 1961 Statelessness Conventions.

Other countries under review: Belgium, Mozambique, Palau, Paraguay, and Seychelles

While the Institute does not possess extensive information related to the right to a nationality and the human rights of stateless persons in these countries, there do not appear to be significant human rights challenges related to statelessness. However, it is recommends that Palau and the Seychelles accede to the 1954 and 1961 Statelessness Conventions, and take all steps necessary to implement their content.