

Statelessness in the Netherlands

A step-by-step guide

A practical guide for caseworkers in contact with
stateless persons in the Netherlands



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ARRIVAL



After an asylum seeker's arrival at the *application centre* (either in Ter Apel or Schiphol) he or she is provided with a '*rust en voorbereidingstermijn*', a rest and preparation period [weblink 1]. This period has a minimum of 6 days. During this period no questions will be asked relating to asylum motives, but research can take place into the identity, fingerprints, and *nationality*. Possible documents that were in possession may also be investigated, as well as the applicability of the Dublin Regulation or protections elsewhere. [weblink 1]

It is of **great importance** that a person's **nationality** and **possible statelessness** is already considered **carefully in this stage**. When there are ambiguities surrounding someone's nationality, ask your client about possible statelessness and assist them with documenting their statelessness through possible official documents [weblink 2] or, more likely, other supporting documents (school attendance records, baptism certificate, UNRWA or GAPAR registration, reports or other documents applicable to statelessness group, applicable nationality laws [weblink 3], etc.).

Note however, **stateless persons often do not possess any documents to prove their identity or statelessness**. These special circumstances need to be taken into consideration by the caseworker and communicated to the responsible lawyer.

START PROCEDURE

After the rest and preparation period, the general asylum procedure starts. This procedure normally lasts between 4-8 days. 2 interviews will be conducted with the IND in which the identity, travel route, and the reason why someone fled will be examined. If more research is necessary, the asylum request will be decided upon in the 'verlengde asielpprocedure', or the extended asylum procedure. [weblink 8, 9]

The client will be assisted by their lawyer. It is important that the client is comfortable and satisfied with their lawyer and that the **lawyer is aware of the client's statelessness**.

During the procedure the identity and nationality will be examined by the IND and **it is the client's responsibility to provide as much information as possible about their statelessness**. Besides assisting with possible retrieval of proof, instruct the client of the importance of communicating their statelessness carefully during their interviews with the IND.

Registration in the **BRP** is possible (under certain conditions) for a person staying in the AZC. When someone is **stateless** and they don't have official documents to prove this, it can be difficult to register as 'stateless'. Most municipalities will then proceed to register someone as '**nationality unknown**'. If this is the case, it is important to **ask the assistance of a lawyer** to help the client chance their registration in the BRP to 'stateless'. A stateless person can only make use of the special rights attributed to them when he or she is registered as 'stateless' in the BRP.

What is statelessness? Officially, a stateless person is "a person who is not considered as a national by any State under the operation of its law". This means that a stateless person does not have a nationality of any country. [weblink 4, 5, 6]

When does statelessness occur? Statelessness can have several causes, including [weblink 7]:

- Discriminatory nationality laws
 - State succession
- Absence of registration process
 - Conflict of laws

Ask the Red Cross family tracing services to help with establishing contact with family members and possible document retrieval [weblink 10]



APPROVAL



REJECTION

Weblink 1: https://ind.nl/documents/rvt_engels.pdf
Weblink 2: <https://travel.state.gov/content/travel/en/us-visas/Visa-Reciprocity-and-Civil-Documents-by-Country.html> (list of official documents available per country)
Weblink 3: http://www.refworld.org/topic/50f8ce524d50f8ce525c0_0_LEGISLATION.html
Weblink 4: <http://www.institutesi.org/world/whatis.php>

Weblink 5: <http://www.unhcr.org/nl/wp-content/uploads/UNHCR-Staatloosheid-in-Nederland-NLD.pdf>
Weblink 6: <https://www.government.nl/topics/dutch-nationality/statelessness>
Weblink 7: <http://www.institutesi.org/world/causes.php>
Weblink 8: <https://www.vluchtelingenwerk.nl/forrefugees/asielpprocedure?language=en>
Weblink 9: https://ind.nl/Documents/AA_Engels.pdf
Weblink 10: <https://www.rodekruis.nl/hulp-wereldwijd/wereldwijd-het-contact-van-families-herstellen>

APPROVAL

When someone is granted protection by the Dutch state they will remain in the **AZC** until alternative housing is arranged, during which support continues to be provided by the Dutch Council for Refugees.

After someone has moved into permanent housing there are other organisations that can help with questions relating to work, insurance, education, healthcare, etc. These often differ per region. Inform the client about the possibilities. Examples include: Compleet Mensenwerk (East Netherlands, [weblink 11](#)), De Driemaster (Zuid-Holland, [weblink 12](#)), Humanitas Groningen and broader NL, [weblink 13](#)). The responsible Municipality also offers support services in cooperation with local social services.



REGISTRATION BRP

Registration as 'stateless' in the BRP of someone's municipality of residence is important. If there was already a registration in the AZC then their records might be transferred to the new municipality if the person has moved. Otherwise a new registration in the new municipality of residence might be necessary.

It is very important to ensure the client is registered as 'stateless' in the BRP. The **burden of proof** is on the client. The municipality will require them to **proof their statelessness with documents**. There are for example specific documents that Palestinians from Syria are expected to provide: [weblink 14](#).

A lawyer may be asked to **assist in the procedure of changing their registration in the BRP**. This is worthwhile since someone can only benefit from the special arrangements for stateless persons when they are registered as such.

Note that **UNHCR** (NL) may be contacted to assist in the procedure by writing letters or intervening where necessary.

Note.
statelessness is not the same as being undocumented. A stateless person is unable to receive protection and citizenship rights even after this has been verified with the appropriate national authorities. This will also mean that no (new) documents can be obtained that will enable the person to (re)enter another country legally.

FAMILY REUNIFICATION

Someone may apply for family reunification. In this case they have to start a new procedure with the IND [[weblink 15, 16](#)]. **This has to be submitted within 3 months** after their asylum request has been approved.

Their family member (partner, child, or mother/father in case of a minor) has to obtain a **machtiging tot voorlopig verblijf (mvv)**, which is a mandatory visa to travel into the Netherlands. The procedure requires them to provide official identification documents and other non-official indicative documents. This may become problematic if their family is stateless. It is therefore important to explore the options with a lawyer and to assist the client with their application. They may also apply for **Bewijsnood** [[weblink 17](#)].

The lawyer may ask the help of **UNHCR** to intervene in the procedure when difficulties occur.

Ask 'Het Juridisch Loket (Legal Help Desk)' for free legal aid and referral to a suitable lawyer. They are present almost every bigger city in NL and have open walk-in hours. [[weblink 18](#)]

ACCESS TO DUTCH CITIZENSHIP

If someone is registered as stateless in the BRP they may naturalise to Dutch citizenship after **3 years of legal stay instead of the regular 5 years**. The IND will assess their request for Dutch citizenship.

If someone wishes to naturalise as a stateless person they are exempt from providing a passport for naturalisation. However, it is still **necessary to provide a birth certificate**. In case they do not possess a birth certificate either, they may apply for **Bewijsnood**, for which they have to prove that they are unable to obtain documents. It is important for them to ask a lawyer or 'Het Juridisch Loket' for help.

If someone is **1) born in the Netherlands, 2) has been registered as stateless from birth and 3) has lived in the Netherlands for 3 continuous years with a valid permission to stay** they may obtain Dutch nationality through the **option procedure**. In this procedure the local Municipality is responsible for assessing the request. Stateless persons are also exempt from providing a passport in the option procedure. [[weblink 19](#)]

Weblink 11: <https://www.compleet-mensenwerk.nl/>
Weblink 12: <http://www.dedriemaster.nu/statushouders/begeleiding-statushouders/>
Weblink 13: <https://www.humanitas.nl/>
Weblink 14: https://mvvb.nl/media/magazine-files/BR_1_STAATLOOS.pdf

Weblink 15: <https://ind.nl/asiel/Paginas/Familieid-van-vluchteling.aspx>
Weblink 16: <https://www.vluchtelingenwerk.nl/forrefugees/gezinshereniging?language=en>
Weblink 17: <https://ind.nl/en/Pages/Lack-of-documentary-evidence.aspx>
Weblink 18: <https://www.juridischloket.nl/contact/>
Weblink 19: <https://ind.nl/en/dutch-citizenship/Pages/Option.aspx>

REJECTION

Statelessness is not a separate ground for protection in the asylum procedure in the Netherlands. The asylum request may be rejected even when someone's statelessness has been proven.

When someone's asylum request is rejected, they normally receive an order to leave the Netherlands within **28 days**. **Most stateless persons however cannot leave the Netherlands due to the absence of identity and travel documents**, besides possible fear of prosecution.

When they are in the Netherlands without a legal permission to stay they may become vulnerable to detention. However, note that **the detention of stateless persons is arbitrary and unlawful when there is no view of expulsion**. They will be assigned a lawyer to appeal the decision to detain. Make sure the client **informs the lawyer about their statelessness**. They may also contact **Meldpunt Vreemdelingendetentie** for help while in detention. The lawyer may use the **legal manual** for additional grounds of appeal and jurisprudence to prevent the arbitrary detention of stateless persons. This manual may be accessed here: [weblink 20](#).

Meldpunt Vreemdelingendetentie is an initiative of 'Stichting LOS' and supports persons in immigration detention. They can be reached from inside detention on their free hotline: 0800-3388776. [[weblink 21](#)]



NGOs

Several **NGOs** assist rejected asylum seekers. Examples are: ASKV Refugee Support (Amsterdam), STIL (Utrecht), Vluchtelingen in de Knel (Eindhoven), Stichting ROS (Rotterdam), INLIA (Groningen), Defence for Children, and others.

It is important to contact an NGO to help with social issues such as shelter and medical referrals [[weblink 22](#)], and legal issues such as the opportunities for a new procedure.

ASKV provides social and legal assistance to undocumented refugees. Special attention is given to stateless persons in the form of client assistance, research, strategic litigation, and lobby & advocacy. [[weblink 25](#)]

The NGO needs to take the **special circumstances of stateless persons** into consideration. This has to be researched by the responsible caseworker. **Profiles of possible stateless persons** may be found here: [weblink 23](#). In addition, take a look at the following **questions** you may ask the client and take into consideration while reading their file: [weblink 24](#).

Always make sure to communicate (possible) statelessness to other actors involved, such as the Gemeente or the DT&V.

Cases of statelessness
There are larger communities of stateless persons such as the **Rohingya, Palestinians, Kurds, Bidoon, and people from the former Soviet Union**. However, statelessness does not restrict itself and can **impact any person**.

NEW PROCEDURE

Currently there is no dedicated **Statelessness Determination Procedure (SDP)** in the Netherlands. This means that proving your statelessness while undocumented can be difficult. Having said this, a legislative proposal for a SDP was published and is due to be discussed in Parliament, however with serious shortcomings. [[weblink 26](#)]

Statelessness is currently not a ground for legal stay. This means that you will have to look into the possibilities of starting a new procedure on different grounds. Again, a person's difficulty in providing identity documents needs to be taken into consideration and the applicability of 'bewijsnood' or 'vrijstellingen' (exemptions) need to be considered. Also take into consideration noteworthy jurisprudence, such as the landmark decision by the European Court of Human Rights on residence rights of a stateless person: **Hoti v. Croatia**, in which the right to legal stay of stateless persons and the need for a shared burden of proof is mentioned [[weblink 27](#)].

There will be often referred to the **'buiten schuld procedure'**, also known as the 'no-fault procedure'. However, this procedure has been criticized by practitioners and civil society for its burden of proof and low approval rate. Get in touch with **ASKV Refugee Support** to discuss the options for litigation using the buiten schuld procedure.

In addition, **UNHCR** may be asked to assist in the new procedure as a specialist. They may write letters or intervene where necessary.

Weblink 20: <https://www.askv.nl/nieuws/juridische-handleiding-staatlozen-vreemdelingendetentie/>
Weblink 21: <http://meldpuntvreemdelingendetentie.nl/?lang=en>
Weblink 22: <http://www.stichtinglos.nl/noodopvang>
Weblink 23: <http://www.askv.nl/wp-content/uploads/2016/10/Profielen-Staatloosheid.pdf>
Weblink 24: <https://www.askv.nl/wp-content/uploads/2018/11/Checklist-evidencing-statelessness.pdf>

Weblink 25: www.askv.nl/staatloosheid
Weblink 26: <https://www.internetconsultatie.nl/staatloosheid/details>
Weblink 27: <https://www.statelessness.eu/blog/hoti-v-croatia-landmark-decision-european-court-human-rights-residence-rights-stateless-person>

GLOSSARY OF TERMS

AZC – 'Asielzoekerscentrum' or 'Asylum seekers' centre' is a government shelter for asylum seekers that have submitted an asylum request and are awaiting the result. This type of shelter, the AZC, is for asylum seekers who are awaiting their procedure in the extended asylum procedure (VA) or persons entitled to residence and who are awaiting permanent housing. For the other relevant shelter locations see *application centre*, *central reception location*, *process reception location*, and *freedom restricting location*. (See <https://www.coa.nl/en/reception-centres/types-of-reception-centres>)

Aanmeldcentrum (application centre) – The *aanmeldcentrum*, or application centre, is the location of the IND where the asylum seeker can submit his/her first asylum request. If the asylum seeker arrives by plane, he or she has to report to the Royal Netherlands Marechaussee at Schiphol. In all other cases, an asylum seeker has to present him- or herself at the IND application centre in Ter Apel. (See <https://www.government.nl/topics/asylum-policy/asylum-procedure>). An asylum seeker reporting to Ter Apel will be sheltered in first instance at the central reception location (col). Asylum seekers arriving by plane are, as a rule, denied admission to the Netherlands. This is why a border procedure is started to deal with their asylum application. A person arriving by plane will remain in the application centre at Schiphol Airport for the duration of this procedure.

Bewijsnood – *Bewijsnood* means lack of documentary evidence. If you wish to obtain Dutch citizenship as a stateless person in the Netherlands you are required to submit a birth certificate in most cases. If you don't possess a birth certificate and you are not exempt from this requirement, you may appeal to 'lack of documentary evidence'. You must then prove with documents why it is not possible to obtain a birth certificate. The IND then determines if you can be exempted. (See <https://ind.nl/en/Pages/Lack-of-documentary-evidence.aspx>)

BRP – *Basis Registratie Personen* (Municipal Personal Records Database). This is the database of the local Municipalities (*Gemeente*) where persons are obliged to register. Persons register in their respective Municipality of residence. Only persons legally staying in the Netherlands can be registered in the BRP. Under certain conditions an asylum seeker staying in an AZC awaiting their decision in the procedure can also register in the BRP. (See <https://www.coa.nl/nl/asielopvang/vertrek-uit-de-opvang/basisregistratie-personen>). Stateless persons can also register in the BRP, but a person needs to show with documents that he or she is stateless in order to be registered as stateless. If you don't have any documents the Municipality will register you as 'nationality unknown'. You can appeal this decision with the help of a lawyer.

Buiten schuld (no-fault) procedure – The no-fault, or *buiten schuld*, procedure can be used for persons who cannot leave the Netherlands due to no fault of their own. The DT&V is responsible for providing mediation support for the applicant wishing to return. The DT&V has an important role in this procedure, as an approval by the IND is dependent on the binding advice of the DT&V. This procedure has faced strong criticism by practitioners and civil society and has a very low approval rate. (See <https://www.dienstterugkeerenvertrek.nl/Werkindeuitvoering/Bijzondereomstandigheden/index.aspx> and https://acvz.org/wp-content/uploads/2015/05/01-07-2013_Advies38-ACVZweb1.pdf). The Dutch government often refers a stateless person who has no legal stay and can't leave the country to the no-fault procedure. However, in practice, statelessness is not considered as a separate ground in the no-fault procedure and this procedure is not suitable for stateless persons due to the high burden of proof that stateless persons often cannot meet due to the fact that stateless persons often do not possess any documents.

Centrale ontvangstlocatie (central reception centre) – The central reception centre (col) is where the asylum seeker will be provided with shelter after he or she has registered at the application centre. This is where the asylum seeker will spend his or her first days in the Netherlands and prepare for the asylum procedure. (See <https://www.coa.nl/en/reception-centres/types-of-reception-centres>)

COA – The Central Agency for the Reception of Asylum Seekers (Centraal Orgaan Asielzoekers, or, COA) is responsible for the reception of asylum seekers coming to the Netherlands. This primarily means that they accommodate asylum seekers in an AZC administered and run by COA until the IND has decided on their asylum application. If a residence permit is granted, COA also facilitates intermediary activities regarding the transfer to more permanent accommodation elsewhere. (See <https://www.coa.nl/en>)

DT&V – The Repatriation and Departure Service (Dienst Terugkeer & Vertrek, or, DT&V) is responsible for expediting the voluntary and forced departure of foreign nationals who are not allowed to stay in the Netherlands. (See <https://english.dienstterugkeerenvertrek.nl/>)

Gemeente – A Gemeente is the local Municipality in which a person resides and which office is subsequently responsible for all administrative procedures regarding someone's registration and marital status. The Gemeente is also responsible for receiving the request for naturalization to Dutch Citizenship. The Gemeente then forwards this request for naturalization to the IND, as the IND is responsible for the decision in this procedure. (See <https://www.government.nl/topics/municipalities/municipalities-tasks>)

IND – The Immigration and Naturalisation Service (Immigratie- en Naturalisatiedienst) is responsible for assessing all applications from foreign nationals who want to live in the Netherlands or want to become Dutch citizens. (See <https://www.ind.nl/en/>)

Machtiging tot voorlopig verblijf (mvv) – A machtiging tot voorlopig verblijf, or an authorization for temporary stay in English, is a mandatory visa that is needed if you are travelling from outside of the European Union and you wish to stay in the Netherlands for longer than 90 days. This visa is also called the long-stay visa. This visa will allow you to travel into the Netherlands to collect your residence permit, for example as a result of the family reunification request. You need to collect the long-stay visa from the Embassy in your country of origin. (See <https://www.netherlandsandyou.nl/travel-and-residence/visas-for-the-netherlands/long-stay-visa-mvv>)

Nationaliteit onbekend - Nationaliteit onbekend, or nationality unknown in English, is a registration category that the Dutch authorities, and in particular the municipalities, use when the nationality of a person could not be confirmed, nor someone's statelessness.

Procesopvanglocatie (process reception centre) – The process reception centre (pol) is where asylum seekers who are in their first phase of the general asylum procedure stay. These centres are located near an office of the IND. During their stay in the pol an asylum seeker will have its interviews with the IND and the lawyer, and will be supervised by the Dutch Council for Refugees and COA. (See <https://www.coa.nl/en/reception-centres/types-of-reception-centres>)

Rust en voorbereidingstermijn (rest and preparation period) – After arrival in the Netherlands every asylum seeker is provided with a rest and preparation period. This period will last at least 6 days. During this period asylum seekers will be provided with information about the asylum procedure and a lawyer will be assigned. A registration interview will also take place, in this interview no questions will be asked about the reasons someone has fled their country but the IND will ask questions about the person's identity and origin. (See https://ind.nl/documents/rvt_engels.pdf)

Stateless - Officially, a stateless person is “a person who is not considered as a national by any State under the operation of its law”. This means that a stateless person does not have a nationality of any country. (See <http://www.institutes.org/world/whatis.php> and <https://www.government.nl/topics/dutch-nationality/statelessness>)

Statelessness Determination Procedure (SDP) – A statelessness determination procedure (or vaststellingsprocedure staatloosheid) is a special procedure for individuals who claim to be stateless. The procedure may facilitate an official determination of their status as stateless, after which they may acquire the rights attached to statelessness. The Netherlands currently has no SDP but a legislative proposal for an SDP has been published and is due to be discussed in Parliament. (See <https://www.government.nl/topics/dutch-nationality/statelessness> and <https://www.internetconsultatie.nl/staatloosheid/details>). There are significant shortcomings to the legislative proposal that stand in the way of real progress. Most importantly, the current legislative proposal does not grant legal stay after statelessness determination, which means that most undocumented stateless persons will continue to live in the Netherlands without legal rights while expulsion to another country is not possible. (See <https://www.internetconsultatie.nl/staatloosheid/reactie/c31db4ca-9433-400c-9871-6fdd753046ca>)

Vrijheidsbeperkende locatie (freedom-restricting centre) – The freedom-restricting centre (vbl) is where rejected asylum seekers may stay when they are no longer entitled to shelter in the AZC. A person may stay in the vbl for up to 12 weeks, provided there is a prospect of return within that period. The DT&V is present at the vbl to work on this return. It is observed that persons may stay longer in the vbl in practice. The vbl is located in Ter Apel. Residents must report 5 days a week and are obliged to stay within the boundaries of the municipality. (See <https://www.coa.nl/en/reception-centres/types-of-reception-centres>). Stateless persons may also stay in the vbl, however, it is often seen that expulsion efforts have not been successful.

