

Joint Submission to the Committee on the Rights of the Child

93rd Pre-Sessional Working Group

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Sweden

Joint Submission

to the Committee on the Rights of the Child

at the 93rd Pre-Sessional Working Group.

Civil society submission on the right of every child to acquire and preserve a nationality under Article 7 and 8 of the Convention of the Rights of the Child (CRC) in accordance with the Guiding Principles to the Convention

Sweden

Introduction

1. The Swedish Organization Against Statelessness (SOAS) and the Institute on Statelessness and Inclusion (ISI) welcome the opportunity to make this submission to the Committee on the Rights of the Child (hereafter the Committee) regarding Sweden's compliance with every child's right to acquire a nationality under Article 7 of the Convention on the Rights of the Child (hereafter the CRC) and preserve their nationality under Article 8 of the CRC. This submission also draws on the Guiding Principles of the CRC, especially the freedom from discrimination (Article 2) and the best interests of the child (Article 3).
2. This thematic submission is based on the co-submitting organisations' expertise and considerable efforts to address the issues of statelessness and realise every child's right to acquire a nationality in Sweden. The submission focuses on:
 - Limited access to Swedish nationality for stateless children born on the territory
 - Limited access to effective Swedish nationality for children at risk of statelessness born abroad
 - Lack of a statelessness determination procedure
 - The practice of registering children with 'unknown nationality'
 - Lack of transparency and adequate data on childhood statelessness and 'unknown nationality'.

3. Annex I to this submission contains previous recommendations to Sweden on the child's right to a nationality, for ease of reference of the Committee. Annex II highlights nationality and statelessness-related information in the LOIPR (combined fifth and sixth Periodic Reports) and Sweden's report under the LOIPR, to which this submission provides comments. Annex III provides an overview on Sweden's relevant international obligations when it comes to ensuring the right to nationality and avoiding childhood statelessness. Annex IV includes more information about the co-submitting organisations.
4. The co-submitting organisations hope that the Committee will draw on this submission to raise the issue of realising the right of every child to acquire a nationality in its Concluding Observations to the Government of Sweden. The submission suggests questions for the Government of Sweden per substantive section, for consideration of the Committee to include in its interactive dialogue. The final section of the submission includes suggested recommendations, which may be drawn on by the Committee in formulating its Concluding Observations.

Overview of childhood statelessness in Sweden

5. Nationality in Sweden is governed by the 2001 Citizenship Act (as amended up to 2021).¹ There are several gaps in Swedish law, policy, and practice which aim to prevent and reduce childhood statelessness and ensure that all children born in Sweden who would otherwise be stateless can enjoy their right to a nationality.² This is also of true of laws, policies, and practices which aim to facilitate access to Swedish nationality for stateless children in the migratory context with domicile in the country. Swedish law lacks a definition of a stateless person, although the term 'stateless' is mentioned in the law several times.³ While there are some procedures through which different government agencies may identify stateless persons, there is no statelessness determination procedure established in domestic law. The lack of a dedicated statelessness determination procedure (SDP) leading to a dedicated statelessness status, through which stateless people can enjoy their rights according to international law, is a concern. Without a legal statelessness status, stateless children are not always protected under the dedicated statelessness Conventions to which Sweden is a party (see Annex III) and cannot enjoy their right to a nationality as stipulated in Article 7 CRC. Further, none of these procedures through which statelessness can be identified in Sweden leads to legal residence status nor rights based on the statelessness status, and most rights that stateless people have access to depend on their eligibility for protection or residence under other routes.
6. There are several sources of disaggregated data on the stateless population in Sweden, and data is collected on stateless people granted asylum or nationality in Sweden. However, it is very likely that

¹ Swedish Citizenship Act (2001:82) (with amendments up to and including SFS 2021:771) [Sweden], 20 July 2021, available at: <https://www.refworld.org/docid/4e6628972.html>.]

² For an analysis of Swedish nationality law, policy and practice, see European Network on Statelessness, STATELESSNESS INDEX, Sweden, available at: <http://www.index.statelessness.eu/country/sweden>.

³ SOU 2021:54, p. 60 "there is no definition for the term stateless in Swedish domestic law, however, Swedish authorities apply the definition in Article 1(1) of the 1954 Convention related to the status of stateless persons"

statelessness in Sweden is underreported, due to overlapping categories, a lack of a unified approach between the Tax and Migration agencies and the absence of a statelessness determination procedure and definition of a stateless person, which means that existing figures are unreliable. No precise figures on the total number of stateless children in Sweden are published.⁴ Between 2016 and 2020, 3,024 children born in the country were registered as stateless, and 15,679 of them were registered as having ‘unknown nationality’. The number of children registered as ‘nationality unknown’ has been increasing over the years, due to the lack of a dedicated statelessness determination procedure, and it is unclear how many children in the category ‘nationality unknown’ are in fact stateless. Childhood statelessness in Sweden affects mostly children born in Sweden but also asylum seekers, refugees, and other children in migratory contexts.

7. Swedish nationality law and related policies have been criticised and recommendations to rectify this have been proposed by human rights bodies (See Annex I). In this regard, the Swedish government adopted some amendments to the Citizenship Act in 2021.⁵ The government also appointed a special investigator to examine specific legal provisions related to statelessness intended to resolve the access to nationality for stateless children. However, amendments to the law are currently framed in a way that continue to violate children's nationality rights and even worsen the situation. Furthermore, when considered together with the new immigration law which came into effect in 2021,⁶ the risk of statelessness for children has now increased due to new rules on permanent residence. The following sections provide further details of the specific issues of concern.

Issue I - Limited access to Swedish nationality for stateless children born on the territory

8. Protecting the right of every child to a nationality entails ensuring that all otherwise stateless children can acquire the nationality of the State in which they are born, either automatically at birth or as soon as possible thereafter.⁷ According to UNHCR, the assessment of whether the child would otherwise be stateless should be carried out by a competent authority with the necessary expertise, and the situation of statelessness should be resolved as soon as possible and in no longer than five years.⁸ As stipulated in Article 3 of the CRC, in all actions undertaken by decision-making officials, the best interests of the child shall be a primary consideration.⁹
9. The Citizenship Act stipulates that Swedish nationality can be acquired:

⁴ <https://www.migrationsverket.se/English/About-the-Migration-Agency/Statistics.html>

⁵ Adopted amendments to Law 2021:771 came into force 20 July 2021: https://www.lagboken.se/Lagboken/start/migrationsratt/lag-200182-om-svenskt-medborgarskap/d_4359009-sfs-2021_771-lag-om-andring-i-lagen-2001_82-om-svenskt-medborgarskap

⁶ <https://www.migrationsverket.se/English/About-the-Migration-Agency/For-press/News-archive/News-archive-2021/2021-07-21-The-Swedish-Migration-Agency-is-now-starting-to-apply-the-new-rules-of-the-Aliens-Act.html>

⁷ Articles 3 and 7 of the CRC and UN High Commissioner for Refugees (UNHCR), Guidelines on Statelessness No. 4: Ensuring Every Child's Right to Acquire a Nationality through Articles 1-4 of the 1961 Convention on the Reduction of Statelessness, 21 December 2012, HCR/GS/12/04, available at: <https://www.refworld.org/docid/50d460c72.html>, para. 11.

⁸ UNHCR (2012), Guidelines on Statelessness No.4: Ensuring Every Child's Right to Acquire a Nationality through Articles 1-4 of the 1961 Convention on the Reduction of Statelessness, HCR/GS/12/04, para 22, available at: <https://www.refworld.org/docid/50d460c72.html>

⁹ 1989 Convention on the Rights of the Child, Article 3

- I. automatically at birth if at least one parent is a Swedish national or if a deceased parent of the child was a Swedish citizen at the time of death (Section 2);
- II. by notification, if for instance a child is born abroad or is stateless and has not acquired the nationality upon birth or upon marriage of the parents (Section 6); and
- III. upon application, i.e., through naturalisation, if certain requirements are met (Sections 11-13).

Children born in Sweden who would otherwise be stateless may face challenges in acquiring Swedish nationality due to various requirements in the process to acquire nationality by application and notification, as set out below, resulting in prolonged situations of statelessness and a violation of Article 7 CRC.

10. Section 6 of the Citizenship Act stipulates that a child born in Sweden who has been stateless since birth does not automatically acquire Swedish nationality and may acquire nationality pursuant to a notification process. The child must have either a (i) permanent residence permit and domicile in Sweden, or (ii) domicile for five years or (iii) holder of a temporary residence permit¹⁰ for a total of ten cumulative years.¹¹ According to Section 4 of the Population Registration Act, an alien shall not be registered if he or she does not have the required residence.¹² The legal residence requirement is not in compliance with Sweden's international commitments, including the CRC and the 1961 Convention on the Reduction of Statelessness (1961 Convention) which Sweden is bound to. In particular, it denies children their right to a nationality (Article 7 CRC) and does not take into consideration the best interests of the child as set out in Article 3 CRC, given that the child's nationality, social identity, and legal status remains uncertain for an extended period after birth.
11. Furthermore, recent amendments to the Aliens Act made in July 2021¹³ have rendered it more difficult to acquire permanent residence in Sweden, requiring a person to have held a temporary residence permit for at least three years to be eligible and for adults is conditioned on the ability to support oneself financially. Read together with the current legal safeguard under Section 6 of the Citizenship Act, this creates further obstacles for stateless children born in Sweden to acquire nationality as soon as possible after birth, as prescribed in the CRC.
12. In 2021 the Swedish Committee appointed by the government to examine questions related to nationality and bring Swedish law more in line with its obligations under the 1961 Convention released its recommendations. Issues under examination included the automatic grant of Swedish nationality to stateless children born in the territory. In 2021, the Committee released its recommendations which

¹⁰ Accordingly, a child is granted a temporary residence permit based on: refugee or subsidiary protection status; family ties; exceptionally or particularly distressing circumstances; or impediments to enforcement of expulsion.

¹¹ Lag om svenskt medborgarskap 2001:82 t.o.m. SFS 2021:771 (Law on Swedish Citizenship), https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-200182-om-svenskt-medborgarskap_sfs-2001-82 (SWE)

¹² Folkbokföringslag (1991: 481), available at: <http://goo.gl/GeGsju>.

¹³ Utlänningslag (2005:716) t.o.m. SFS 2022:1015 (Aliens Act), Chapter 5 paragraph 1, 3, 3a or 6, or Chapter 12 paragraph 18, available at: https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/utlanningslag-2005716_sfs-2005-716 (SWE)

did not include a recommendation for automatic acquisition of nationality for stateless children born in the territory, but rather proposed to make ‘automatic citizenship’ contingent on the child having at least one parent holding a permanent residence permit.¹⁴ This proposal is problematic because it conditions the child’s ability to acquire Swedish nationality on the status of the child’s parents, contrary to provisions set out in the CRC, the 1961 Convention on the Reduction of Statelessness, and the European Convention on Nationality (ECN).

13. In addition, the main justification provided for not recommending unconditional automatic acquisition of nationality for children born in Sweden who would otherwise be stateless is that such a system would be costly as it would require the involvement of both the Swedish Migration Agency (SMA), and Swedish Tax Agency (STA), and would result in a slow, bureaucratic process.¹⁵ This justification puts parents/legal guardians at increased financial risk and is against the UN Committee on the Rights of the Child, General Comment No. 19 (2016) on public budgeting for the realisation of children's rights (Art. 4), which states that 'The Committee reiterates that prioritising children's rights in budgets, at both national and subnational levels, as required by the Convention, contributes not only to realising those rights, but also to long-lasting positive impacts on future economic growth.'

In light of the context outlined above, the Committee is urged to ask Sweden:

- **How does Sweden justify the permanent residence requirement in the acquisition of nationality process for stateless children, despite explicit recommendations by international mechanisms, including the CRC?**
- **How does Sweden justify not adopting a system of automatic acquisition of nationality at birth for children who would otherwise be stateless for financial reasons?**
- **What steps, in accordance with Sweden’s international obligations, is the Swedish Government taking to ensure that all stateless children born or residing in Sweden fulfil their right to a nationality and enjoy their full CRC rights without discrimination?**

¹⁴ Ändrade regler i medborgarskapslagen SOU 2021:54 (Changed rules in the Citizenship Act): <https://www.regeringen.se/49eaf3/contentassets/e0822ac4aa904e19a622d09875efdb9f/andrade-regler-i-medborgarskapslagen-sou-202154.pdf> (SWE), it is further noted in the report that the possibility of automatic acquisition without the requirement of a permanent residence permit (i.e. only a temporary residence permit) was not investigated as the committee directive posed permanent residence permit as a condition (see Government of Sweden, Kommittédirektiv Dir. 2019:70)

¹⁵ Ändrade regler i medborgarskapslagen SOU 2021:54 (Changed rules in the Citizenship Act): <https://www.regeringen.se/49eaf3/contentassets/e0822ac4aa904e19a622d09875efdb9f/andrade-regler-i-medborgarskapslagen-sou-202154.pdf> (SWE)

Issue II - Limited access to Swedish nationality for stateless children born abroad

14. According to the Citizenship Act (2001:82), stateless children who are born abroad can acquire Swedish nationality if they are domiciled in Sweden for two years and have a permanent residency in Sweden.¹⁶ While this legal provision effectively facilitates naturalization for stateless children born abroad and is therefore a welcome safeguard to reduce statelessness among children born outside Sweden, there are emerging concerns with the effectiveness of this provision arising principally from the most recent amendments to Aliens Act.
15. As mentioned under Issue I, new amendments to the Aliens Act render it more difficult to acquire permanent residency given the new conditions attached thereto, including at least three years temporary residence and economic stability requirements for adults. With the introduction of these new amendments, stateless children born outside Sweden will face additional obstacles to acquiring permanent residency and potentially remain in a prolonged period of statelessness before they can access Swedish nationality. Furthermore, stateless children born abroad who are between the age of 15 and 18 must have a clean juvenile record to be eligible for Swedish nationality.¹⁷ Those unable to fulfil this requirement may be ineligible for naturalisation and end up in an indefinite situation of statelessness. This provision does not comply with the UN Committee on the Rights of the Child, General comment No. 24 (2019) on children's rights in the child justice system, which recommends that State Parties should 'introduce rules permitting the removal of children's criminal records when they reach the age of 18, automatically or, in exceptional cases, following independent review.' (para 71)¹⁸ and more broadly the implications of the amended Alien's Act run counter to Sweden's obligation under the CRC, in particular Article 3 on the child's best interest and¹⁹ Article 7 on ensuring every child's right to a nationality.²⁰
16. There are also concerns for children born abroad who are entitled to automatic Swedish nationality at birth. Due to several administrative barriers prescribed under section 2 of the Alien's Act, these children – though not stateless – may be at risk of statelessness if their parents are unable to fulfil the administrative requirements necessary for their recognition as Swedish citizens. These barriers include the need to upload digital documentation or physically visit the Swedish embassy in order to be registered in the population register and acquire a personal identification number – both of which are necessary to facilitate confirmation of nationality. These processes, which require either access to internet services or consular services, present almost insurmountable obstacles for children born in rural or conflict areas who may not have access either option. If left unaddressed, these children will

¹⁶ Lag om svenskt medborgarskap 2001:82 t.o.m. SFS 2021:771 (Law on Swedish Citizenship), available at: [https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-200182-om-svenskt-medborgarskap_sfs-2001-82_\(SWE\)](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-200182-om-svenskt-medborgarskap_sfs-2001-82_(SWE))

¹⁷ Ändrade regler i medborgarskapslagen SOU 2021:54 (Changed rules in the Citizenship Act): <https://www.regeringen.se/49eaf3/contentassets/e0822ac4aa904e19a622d09875efdb9f/andrade-regler-i-medborgarskapslagen-sou-202154.pdf> (SWE)

¹⁸ Committee on the Rights of the Child General comment No. 24 (2019) on children's rights in the child justice system: <https://ec.europa.eu/newsroom/just/items/665556/default>

¹⁹ Ibid, Article 7

²⁰ Ibid, Article 7

face difficulty establishing/confirming nationality and will be at an increased risk of statelessness; and the barriers for a child born to a deceased parent with Swedish nationality is even greater.

In light of the above, the Committee is urged to ask Sweden:

- How does Sweden explain refusing to issue residence permits to children who have been identified as stateless and born abroad?**
- What steps are being taken to identify stateless children and consequently grant the status of ‘stateless person’ to guarantee enjoyment of their rights until they may be able to acquire a nationality?**
- What steps are being taken to guarantee access to an effective Swedish nationality to children born abroad in conflict and rural areas?**

Issue III - Lack of a statelessness determination procedure and inconsistent recording of statelessness

17. Statelessness determination procedures are critical in identifying stateless children and further ensuring their rights are protected until they can acquire a nationality.²¹ Without such mechanisms, stateless children are at risk of having their basic human rights violated, including the right to education, the right to vote and access to lawful work. The irregular status makes stateless children vulnerable to other human rights violations including (prolonged) arbitrary detention, human trafficking, and forced labour or prostitution, where the principles of non-discrimination, identity and family relations are often endangered (Articles 2 and 8 of the CRC).²²
18. While the 1954 Convention Relating to the Status of Stateless Persons does not mandate State Parties to develop statelessness determination procedures, the Convention requires State parties to protect the rights of stateless children, making them implicitly responsible for implementing procedures that identify stateless children.²³ Furthermore, according to the UNHCR Guidelines on Identifying Statelessness, a statelessness determination procedure should be implemented by a competent body whose expertise focuses on nationality and statelessness.²⁴
19. While Swedish nationality, asylum, and immigration laws refer to statelessness, the term stateless person is not defined, nor is there a legal mechanism to identify stateless children. Stateless children are most often identified as stateless via the Swedish Migration Agency (SMA), when applying for a regularised stay in Sweden, or shortly after their birth if born on the territory, also by the SMA. They

²¹ Swedish Organization Against Statelessness Reference Group

For more information, see ENS Statelessness Index Survey 2021: Sweden, which was carried out by Swedish Organization Against Statelessness (SOAS) with input and verification by the Swedish Network of Refugee Support Organisations (FARR) and Jesús Tolmo, available at: https://index.statelessness.eu/sites/default/files/ENS_Statelessness_Index_Survey-Sweden-2021_0.pdf

²² 1989 Convention on the Rights of the Child, Articles 2 and 8

²³ UNHCR (2014), Handbook on Protection of Stateless Persons, para. 144, available at: <https://www.refworld.org/docid/53b676aa4.html>

²⁴ UNHCR (2012), Guidelines on Statelessness No.4: Ensuring Every Child’s Right to Acquire a Nationality through Articles 1-4 of the 1961

can also be identified by the Swedish Tax Agency (STA), even though the burden of proof for this is high. It should be noted that there are currently no mechanisms in place for the automatic alignment of information across the Register of Swedish Migration Agency (SMA) and the Swedish Tax Agency (STA). This means that a change in an individual's nationality status from 'unknown' to 'stateless' will not be automatically reflected in all the registers across Sweden. Amended rules in the Citizenship Act (SOU 2021:54) proposed a system to achieve cohesive administration of justice, according to which all nationality issues and notification matters are processed by the SMA as a single processing authority.²⁵ However, the final report of the special investigator does not offer a clear solution to the divergent practices of the SMA and STA to determine statelessness due to the administrative authorities' duty to independently carry out their assessments.²⁶ This further creates bureaucratic obstacles for stateless children in the Swedish territory to acquire Swedish nationality due to the inconsistencies across all of Sweden's national registers and agencies.

20. Furthermore, the standard of proof to prove nationality or statelessness is generally high and differs across agencies. There is no common guidance on the standard of proof that should be applied when evidencing statelessness. The Tax Agency, for instance may require a passport or other form of civil status documentation to prove nationality, which inevitably a stateless person cannot provide. So, despite the Tax Agency referring to stateless persons on its webpage, in practice, it is almost impossible to be registered as a stateless person by the agency. The Migration Agency, on the other hand, will accept documents indicating a lack of nationality, and stateless persons may therefore be registered with this entity. The threshold to make one's identity probable solely based on oral statements is very high. However, in practice, stateless people do not have any form of identity documentation. The burden of proof, which should be shared with legal authorities, frequently falls solely on the child's legal guardian(s). As such, due to the administrative and practical obstacles of all three Swedish agencies, there is no assessment of new born children's nationality for instance, leaving the child at risk of statelessness.²⁷ This runs counter to Article 7 of the CRC which asserts that 'The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.'²⁸ However, in Sweden, the child's birth is simply recorded, and the child's nationality is not verified or registered. Sweden is thus failing to fulfil its obligation to the CRC.
21. The lack of a dedicated statelessness determination procedure is in direct conflict with Sweden's obligations under the 1961 Convention.²⁹ Due to the lack of such a procedure, stateless children in Sweden have their status remain uncertain for years. This cannot be seen as compliant with Article 7 of the CRC on realizing every child's right to a nationality and Article 3 CRC on the best interests of

²⁵ Ändrade regler i medborgarskapslagen SOU 2021:54 (Changed rules in the Citizenship Act): <https://www.regeringen.se/49eaf3/contentassets/e0822ac4aa904e19a622d09875efdb9f/andrade-regler-i-medborgarskapslagen-sou-202154.pdf> (SWE)

²⁶ Personuppgiftslagen (1998: 204), available at: <http://goo.gl/OsUlrj> and Offentlighets – och sekretesslagen (2009: 400), available at: <http://goo.gl/d8rbUo>.

²⁷ Aliens Act (2005:716) Chapter 12 section 18.

²⁸ <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

²⁹ 1961 Convention on the Reduction of Statelessness, Article 2.

the child.³⁰ To meet its international obligations, the Swedish government should reconsider the recommendations in the special investigator's final report (SOU 2021:54) and introduce a legal definition of a stateless person as well as a legal mechanism to identify stateless children. This, in order to ensure their rights are protected until they can acquire a nationality.

In light of the above, the Committee is urged to ask Sweden:

- How may stateless children access other rights with no residence?**
- What steps are being taken to introduce a statelessness determination procedure to identify stateless persons in Sweden?**
- What steps are being taken to identify stateless children and consequently grant the status of 'stateless person' to guarantee enjoyment of their rights until they may be able to acquire a nationality?**

Issue IV - Practice of registering children under the category of 'unknown nationality'

22. As explained in the previous section, the Swedish Citizenship Act does not lay out a clear procedure for the determination of statelessness and is particularly limited regarding the determination and identification of statelessness for children with 'unknown nationality'. The interpretation and implementation of the requirement 'stateless at birth' by the Swedish Migration Agency do not include children registered with 'unknown nationality' and, therefore, creates further risks of long-term statelessness. In addition, there is no common framework for the relevant authorities to guide the assessment of whether a child is 'stateless', has 'unknown nationality', or is 'under investigation'. If nationality or statelessness cannot be established, the Tax Agency registers the person as 'unknown nationality'. This also means that children are left in limbo due to the lack of a clear statelessness determination procedure. These conditions are not consistent with Article 7 CRC on realising every child's right to a nationality³¹, Article 3 CRC on the best interests of the child³² as their status remains uncertain for years and endanger the principle of non-discrimination (Article 2 CRC).³³
23. Mr. Tolmo observes in his research on statelessness statistics in Sweden, that the number of persons registered as stateless has decreased since 2016, while the number of persons with unknown nationality has increased steadily.³⁴ This shift partly reflects a change in the way births are registered by the Swedish Tax Agency since 2015. Children under the age of six were the largest group of people registered as having 'unknown nationality' from 2012 onwards, with an eight-fold increase in the last

³⁰ 1989 Convention on the Rights of the Child, Articles 3 and Article 7.

³¹ 1989 Convention on the Rights of the Child, Article 7

³² Ibid, Article 3

³³ Ibid, Article 3

³⁴ [Sweden needs automatic acquisition of nationality at birth for stateless children – here's why | European Network on Statelessness](#)

decade. This is concerning as children under the age of six accounted for 71% of the total people registered as 'unknown nationality' in 2020.

24. As a result, in September 2020, the Swedish Government met with national agencies to discuss challenges related to the registration of statelessness, nationality, and 'unknown nationality'. The purpose of this dialogue was to limit existing inconsistencies in the registration of stateless persons, including children. In the final report the Committee concluded "*the number of children who are registered as stateless at birth in Sweden is no longer as high some year or years after the birth*".³⁵ While the decrease of children registered as stateless aligns with earlier data, it further affirms the importance of a statelessness determination procedure to obtain clarity about which children registered within the category 'unknown nationality' are in fact stateless.

In consideration of the analysis outlined above, the Committee is urged to ask Sweden:

-What steps is Sweden considering improving safeguards for children with "unknown nationality" and to ensure that all children born on its territory are only registered as "unknown nationality" for as little time as possible?

-What efforts are being made to protect children's rights when they are listed as having "unknown nationality" and to guarantee that their right to access a nationality is respected?

Issue V - Lack of transparency and adequate data on childhood statelessness

25. States should collect reliable quantitative and qualitative data on statelessness. Identifying stateless people is the first step to assist them and having accurate data helps States – as well as international entities – to monitor whether they are meeting their obligations in respect of protecting the rights of stateless persons and realising the right to a nationality. UNHCR published a mapping study of statelessness in Sweden in 2016.³⁶ However, the report states that there may be a large unknown number of stateless persons in Sweden due to the lack of a statelessness determination procedure and the lack of legal definition of a stateless person. The Swedish Government has not yet conducted a mapping exercise to understand the extent of statelessness in the country. Therefore, it is important that the State conducts a mapping study of childhood statelessness and publishes detailed qualitative and quantitative data on the acquisition of nationality by stateless children and children with unknown nationality, as well as identifying and addressing any impediments that prevent children from fulfilling requirements or accessing their right to acquire nationality even if they fulfil the requirements in practice.

³⁵ Ändrade regler i medborgarskapslagen SOU 2021:54 (Changed rules in the Citizenship Act): <https://www.regeringen.se/49eaf3/contentassets/e0822ac4aa904e19a622d09875efdb9f/andrade-regler-i-medborgarskapslagen-sou-202154.pdf> (SWE)

³⁶ UNHCR, Mapping Statelessness in Sweden, December 2016: <https://www.refworld.org/pdfid/58526c577.pdf>

According to the above information, the Committee is urged to ask Sweden:

- How many stateless children reside in Sweden and how many children acquire Swedish nationality per year?
- How will the Swedish authorities guarantee measures identifying stateless children among the larger category of children registered as ‘unknown nationality’?
- Which authority is responsible for mapping statelessness and collecting qualitative information on stateless children?

Recommendations

26. Based on the content of this submission, the following recommendations are made, which we hope the Committee will consider in urging the Government of Sweden the right of every child to acquire a nationality:

- I. Amend the current law to ensure automatic access to Swedish nationality at birth for stateless children born on the territory, irrespective of their parent(s) legal status;
- II. Implement a statelessness determination procedure, which can i) effectively identify whether a child born in Sweden is otherwise stateless and ii) identify the nationality status of children that have migrated to Sweden;
- III. Introduce safeguards in Swedish nationality law, policy and practice to ensure that children born in Sweden have their nationality status determined so as to ensure they only remain registered as having ‘unknown nationality’ for the shortest possible period, in order to guarantee the child’s right to a nationality and ensure that children born in Sweden who would otherwise be stateless acquire Swedish nationality.
- IV. Introduce an effective statelessness determination procedure in line with UNHCR guidance and good practice standards, which is accessible to all persons on the territory of Sweden and automatically leads to the granting of a residence permit and all rights protected under the 1954 Convention relating to the Status of Stateless Persons.
- V. Strengthen and publish the collection of qualitative and quantitative data on childhood statelessness in Sweden, including stateless children born in Sweden and abroad, and children with unknown nationality;

ANNEX I: Previous recommendations to Sweden on the child's right to a nationality

United Nations Committee on the Elimination of Discrimination Against Women, 24 November 2021

Concluding Observations of the 10th Periodic Report of Sweden (CEDAW/C/SWE/CO/10)

29. *The Committee welcomes the measures taken by the State party to prevent and reduce statelessness, including of women and girls, and the fact that the State party has granted nationality to more than 22,000 stateless persons since 2014. However, the Committee notes with concern that approximately 14,000 stateless persons, including many women and girls, are currently living in the State party. It further notes with concern that children, including girls, who are born stateless in the State party must apply for citizenship before reaching adulthood.*

30. *Recalling its general recommendation No. 32 (2014) on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, the Committee recommends that the State party adopt legislative and policy measures for the reunification of families and ensure equal access to health, legal and social services to mothers of stateless children. It also recommends that the State party systematically collect data, disaggregated by sex, age and gender, on the extent of statelessness in the State party.*

United Nations Committee on Economic, Social and Cultural Rights, 16 November 2020

List of issues prior to submission of the seventh periodic report of Sweden (E/C.12/SWE/QPR/7)

A(3). *Please provide information on the additional social security programmes established to mitigate the impact of the coronavirus disease (COVID-19) pandemic on the enjoyment of economic, social and cultural rights, particularly by disadvantaged and marginalized individuals, and specify the scope and level of benefits, target groups and uptake rates of such programmes. Please also provide information on the analysis conducted by the Agency for Health and Care Services Analysis on the impact of the COVID-19 pandemic on the social services provided in individual and family care and on the follow-up measures taken. Furthermore, please indicate the measures taken to ensure access, without any form of direct or indirect discrimination, to all such benefits and assistance by disadvantaged and vulnerable persons and groups, including stateless persons and migrants in an irregular situation.*

23. *Please provide statistical data, disaggregated by ethnic and national origin, age, sex and socioeconomic status, on school enrolment and completion rates at primary, secondary E/C.12/SWE/QPR/7 5 and tertiary levels of education. Please also provide information on the measures taken to ensure equal access to inclusive education by children with disabilities and children of migrants, asylum seekers, refugees and stateless persons*

Report of the Working Group on the Universal Periodic Review: Sweden, 18 March 2020 (A/HRC/44/12)

68. Moreover, over the past five years, over 22,000 stateless persons had been granted Swedish nationality. Against this background, an inquiry on nationality had been appointed. One measure being examined was whether certain children who were born stateless in Sweden could acquire Swedish nationality automatically at birth.

156.297 Further strengthen efforts in helping refugees, asylum seekers and, most importantly, stateless persons, especially children (Somalia);

156.298 Establish a dedicated statelessness determination procedure to identify stateless persons within the territory and facilitate their protection, particularly regarding stateless children (Brazil);

Commissioner for Human Rights of the Council of Europe

Report by Nils Muižnieks following his visit to Sweden from 2 to 6, October 2017

56. The Commissioner recommends the establishment of a statelessness determination procedure, so that those persons who are entitled to the protection regime of the 1954 Convention can be identified, and be granted a legal status as a stateless person. Useful guidance in this regard is provided by UNHCR's Handbook on Protection of Stateless Persons.

57. The Commissioner further recommends that persons identified as stateless be granted a permanent residence permit on the ground of their statelessness, with all the rights to which they are entitled under the 1954 Convention.

58. The Commissioner stresses that automatic acquisition of nationality at birth is the most effective way of preventing statelessness and safeguarding the right for all children to have a citizenship at birth or shortly after birth, as enshrined in the UN Convention on the Rights of the Child. He encourages the authorities to consider adopting a system of automatic granting of citizenship at birth to children who would otherwise be stateless.

ANNEX II: The LOIPR and Sweden's Report to the Committee

For ease of reference, the relevant paragraphs from the Committee's LOIPR to Sweden on the child's right to acquire a nationality, are quoted below:

Statelessness and nationality

15. Please provide information on the following:

(a) Any legislative measures taken or envisaged to ensure that all Stateless children born in the State party, irrespective of residency status, have access to citizenship

(b) The policy regarding the citizenship of children born abroad to a Swedish parent and of children taken abroad to join in hostilities.

Civil Rights and Freedoms (arts. 7, 8 and 13-17)

39. Please provide data, disaggregated as described in paragraph 34 above, on the following:

(a) Stateless children

In its State Report under LOIPR Sweden responded with the following:

(a) The Citizenship Act (2001:82) was amended on 20 June 20 2021 where certain stateless children and young adults, born in Sweden and having lived in the country for a certain period, are exempted from the previous requirement for a residence permit to be permanent in order to obtain Swedish citizenship.

(b) A child automatically obtains Swedish citizenship at birth if a parent of the child is a Swedish citizen or if a deceased parent of the child was a Swedish citizen at the time of death.

The final report on amended rules in the Citizenship Act, which was submitted in July 2021, included reviewing whether a system should be introduced with automatic acquisition of citizenship for certain stateless children born in Sweden. The inquiry deemed that such a system should not be introduced, because this group can obtain citizenship by application. The report proposes that the provisions on renunciation from Swedish citizenship should be expanded with a requirement for children's consent and that renunciation must not be in conflict with the child's best interests. The report is now being circulated for formal consultations with a final response date of 4 November 2021.

Sweden's response fails to sufficiently address the issues raised under the LOIPR. Of particular concern is the failure to ensure that all stateless children born in the State party, irrespective of residency status, have access to Swedish citizenship automatically at birth, or as soon as possible after birth.

ANNEX III: Sweden's International Obligations

In addition to the UNCRC, Sweden is a party to the core international human rights treaties. This includes the ICCPR, ICESCR, ICERD, CEDAW, CRPD, and CAT. Additionally, Sweden has signed and ratified the 1954 Convention Relating to the Status of Stateless Persons (with reservations to articles 12.1, 24.3, 25.2), the 1961 Convention on the Reduction of Statelessness, and has entered the European Convention on Nationality into force. Sweden has signed but not ratified the CED and has not signed the 2006 Council of Europe Convention on the Avoidance of Statelessness in relation to State Succession. Sweden has also not signed the Convention on the Rights of Migrant Workers and Families.

In line with the obligations established in the above-mentioned Conventions, Sweden must respect and guarantee the following obligations in relation to the child's right to a nationality and to prevent childhood statelessness:

- a. Every child has the right to acquire a nationality¹, particularly where the child would otherwise be stateless.²
- b. The acquisition of nationality by foundlings found on its territory who would otherwise be stateless;³
- c. The acquisition of nationality by children born on its territory who do not acquire another nationality, either at birth or as soon as possible after birth if they remain stateless;⁴
- d. The Guiding Principles of the CRC including the prohibition of discrimination against any child or their parents or guardians and ensuring that the best interests of the child are a primary consideration for authorities in dealing with all the matters above.⁵
- e. Particular protections are afforded to children with disabilities and girls⁶ to ensure that they have equal access to acquire a nationality.
- f. Children should not be stripped of their nationality where it would render them stateless.⁷

Under the Universal Periodic Review and CEDAW, the following key issues relating to the child's right to acquire a nationality and prevention of childhood statelessness have been raised:

- a. The automatic acquisition of nationality at birth for certain stateless children, and the creation of a dedicated statelessness determination procedure to identify and protect stateless children.⁸

¹ 1989 Convention on the Rights of the Child Article 7(1), 1966 International Covenant on Civil and Political Rights article 24(3).

² 1989 Convention on the Rights of the Child Article 7(2), 1961 Convention on the Reduction of Statelessness 1(1).

³ 1997 European Convention on Nationality article 6(1)(b), 1961 Convention on the Reduction of Statelessness Article 2.

⁴ 1997 European Convention on Nationality, Article 6(2)(b); 1961 Convention on the Reduction of Statelessness, Article 1(2)(b).

⁵ 1989 Convention on the Rights of the Child Article 2 and 3

⁶ 2006 Convention on the Rights of Persons with Disabilities Article 18(2), 1979 Convention on the Elimination of Discrimination Against Women, article 9(1).

⁷ 1961 Convention on the Reduction of Statelessness Article 6 - 8, Convention on the rights of the Child Article 2(2),3(1),7(1),8(1).

⁸ Human Rights Council, Report of the Working Group on the Universal Periodic Review (2020) A/HRC/44/12, [68] and 156.298.

- b. The impact of national laws that require applications for citizenship to be made, rather than automatic acquisition of citizenship for children including girls.⁹
- c. The need to systematically collect data, disaggregated by sex, age and gender, on the extent of statelessness in the State party.¹⁰

Furthermore, during the Ministerial Intergovernmental Event on Refugees and Stateless Persons organised by UNHCR in December 2011, Sweden made several pledges in order to further address statelessness.¹¹

Moreover, at the High-Level Segment on Statelessness in October 2019 Sweden pledged, inter alia, the following:

“Sweden has a pending government decision on establishing a government led Inquiry on Nationality. The inquiry will, among other issues, look at further measures to limit statelessness, including if certain children born stateless in Sweden could acquire nationality automatically at birth, instead of through the current simplified notification process.”

“The UNHCR report on the assessments made in the mapping of statelessness in Sweden has been examined in the Government Offices. In order to make improvements in our efforts to address statelessness we have initiated measures to ensure that challenges highlighted in the study will be addressed. In particular, the government has initiated a dialogue with the responsible national agencies to discuss registration of statelessness, nationality and “unknown” nationality. Through increased cooperation and consultation between the authorities our belief is that improvements will be made to limit the existing inconsistencies in registration. The government follows the progress made.”

⁹ Committee on the Elimination of Discrimination Against Women, ‘Concluding Observations on the tenth periodic report of Sweden’ (2021) CEDAW/C/SWE/CO/10, [30].

¹⁰ Id.

¹¹ Pledges 2011, Ministerial Intergovernmental Event on Refugees and Stateless Persons <https://www.unhcr.org/4ff55a319.pdf>

ANNEX IV: About the co-submitting organisations

1. The Swedish Organization Against Statelessness (SOAS) is the first and only non-governmental organisation in Sweden to work solemnly on the issue of preventing and eradicating statelessness. Through campaigns, advocacy work and information-sharing, the organisation seeks to amplify the experiences and problems that persons affected by statelessness face in Sweden.
2. ISI is an independent non-profit organisation 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 ISI.¹² As part of this work, ISI has made around 20 country submissions to the Committee,¹³ developed a range of resources on the child's right to a nationality and childhood statelessness, including a Toolkit on *Addressing the Right to a Nationality through the Convention on the Rights of the Child*,¹⁴ Statelessness Essentials Booklets on *Childhood Statelessness*,¹⁵ *the Convention on the Rights of the Child*¹⁶ and other related issues,¹⁷ *The 2017 World's Stateless Report: Children*,¹⁸ and a range of resources for children, which can be found online. ISI has also contributed its expertise and information towards General Recommendations of the Committee as well as Joint General Recommendations by the Committee and the CMW.

¹² See <https://www.institutesi.org/focus-areas/children>

¹³ See <https://www.institutesi.org/core-activities/human-rights-advocacy-crc>

¹⁴ Institute on Statelessness and Inclusion (2016), *Addressing the Right to a Nationality through the Convention on the Rights of the Child: A Toolkit for Civil Society*, available at: https://files.institutesi.org/CRC_Toolkit_Final.pdf

¹⁵ Institute on Statelessness and Inclusion (2018), *Statelessness Essentials, Childhood Statelessness*, available at: <https://files.institutesi.org/childhood-statelessness.pdf>

¹⁶ Institute on Statelessness and Inclusion (2018), *Statelessness Essentials, Statelessness & Human Rights, The Convention on the Rights of the Child*, available at: <https://files.institutesi.org/statelessness-and-CRC.pdf>

¹⁷ For all the *Essentials Booklets*, see <https://www.institutesi.org/core-activities/statelessness-essentials-booklet-series>

¹⁸ Institute on Statelessness and Inclusion (2017), *The World's Stateless Children*, available at: <https://files.institutesi.org/worldsstateless17.pdf>