

A young boy with dark skin and short hair is looking upwards with a focused expression. He is balancing a basketball on the tip of his right index finger. The background is a blurred outdoor setting with green and autumn-colored trees. The text is overlaid on the left side of the image.

# STATELESSNESS IN THE NETHERLANDS

legal reforms and unresolved issues

Robin van Oene  
6 June 2024

**ASKV** ←

steunpunt vluchtelingen

# STATELESSNESS IN THE NETHERLANDS

**6th of June 2023**

Dutch Parliament finally passed a legislation package on statelessness that has been in the making since 2014. It introduces, among others, a

- Procedure for identifying stateless people, and a;
- Pathway to Dutch nationality for stateless children born in the Netherlands, but without legal residence rights.

**27.637**

stateless persons or persons of “unknown nationality” (2024)  
of which 5.548 children below the age of 18

# **SITUATION BEFORE NEW LEGISLATION**

**NO OFFICIAL STATELESSNESS DETERMINATION  
PROCEDURE**

**NO RESIDENCE PERMIT FOR STATELESS PERSONS**

**ACCESS TO NATIONALITY FOR STATELESS CHILDREN**

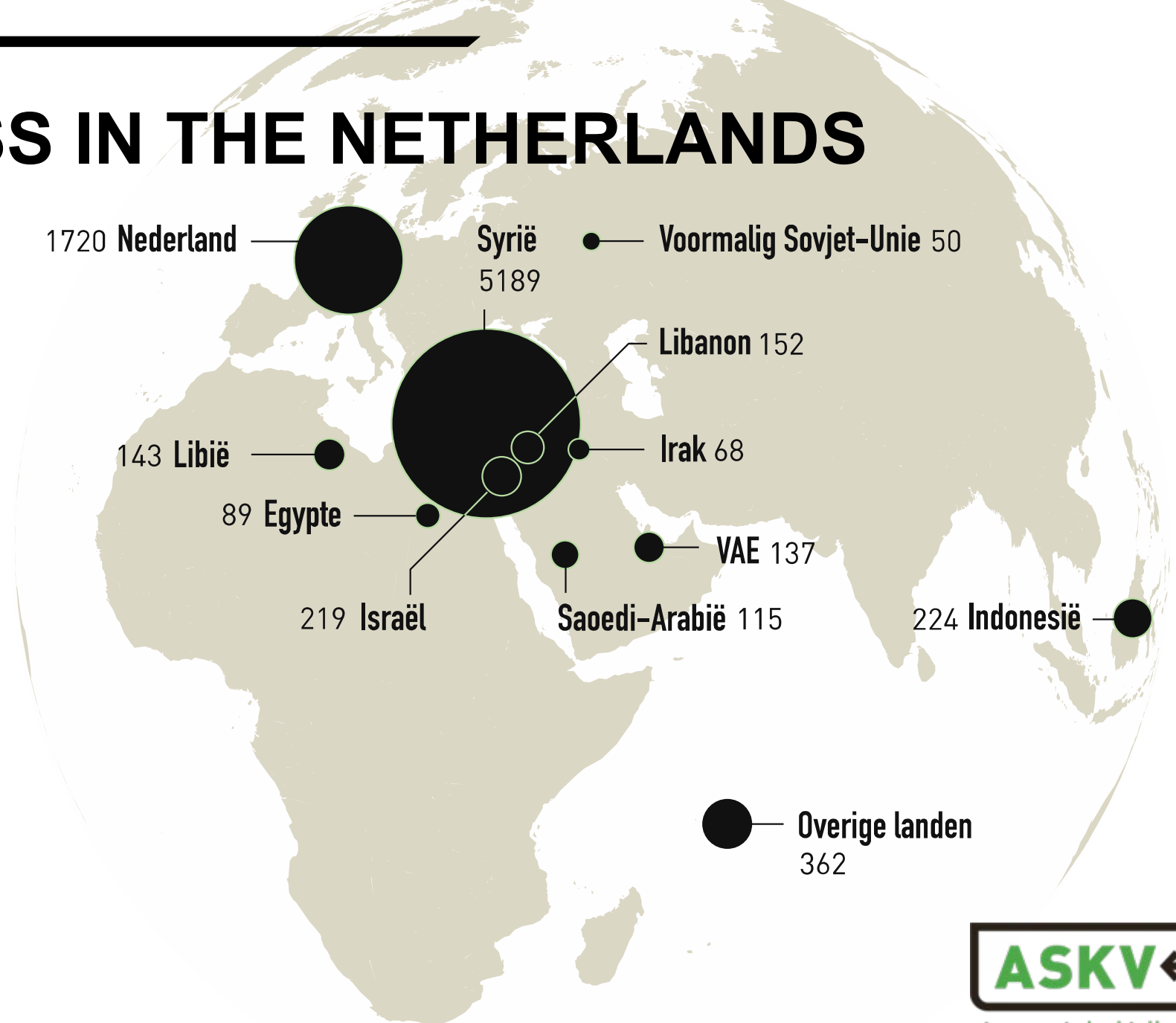
Stateless children born in the Netherlands could only acquire Dutch nationality after 3 years of legal residence.

**INTERNATIONAL OBLIGATIONS**

Not fully compliant with international standards and obligations, as recommended by UNHCR among others

# STATELESSNESS IN THE NETHERLANDS

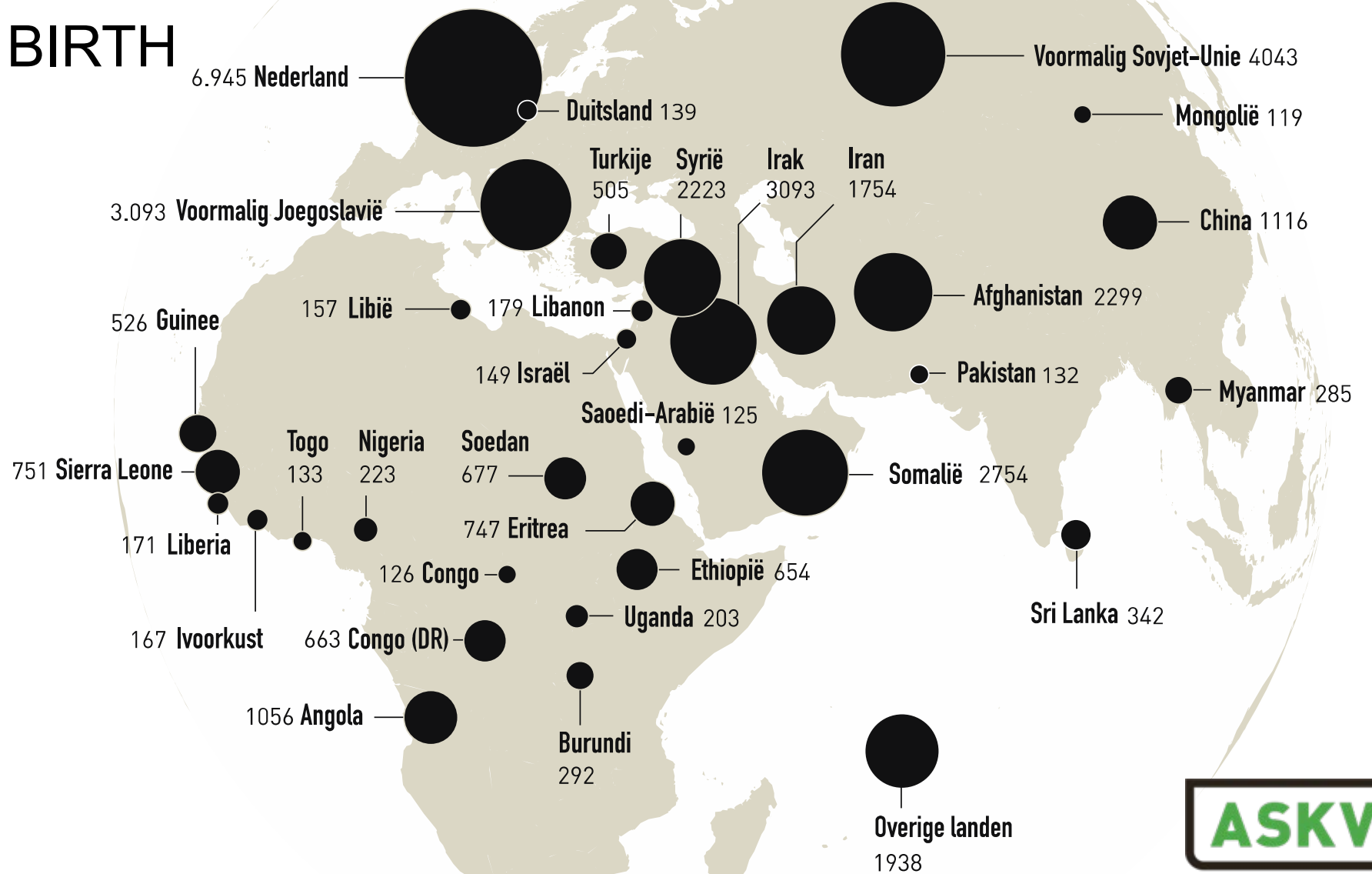
COUNTRY OF BIRTH  
2020



# UNKNOWN NATIONALITY IN THE NETHERLANDS

## COUNTRY OF BIRTH

2020



# NEW LEGISLATION OVERVIEW

DATE PASSED 6TH JUNE 2023

## KEY COMPONENTS

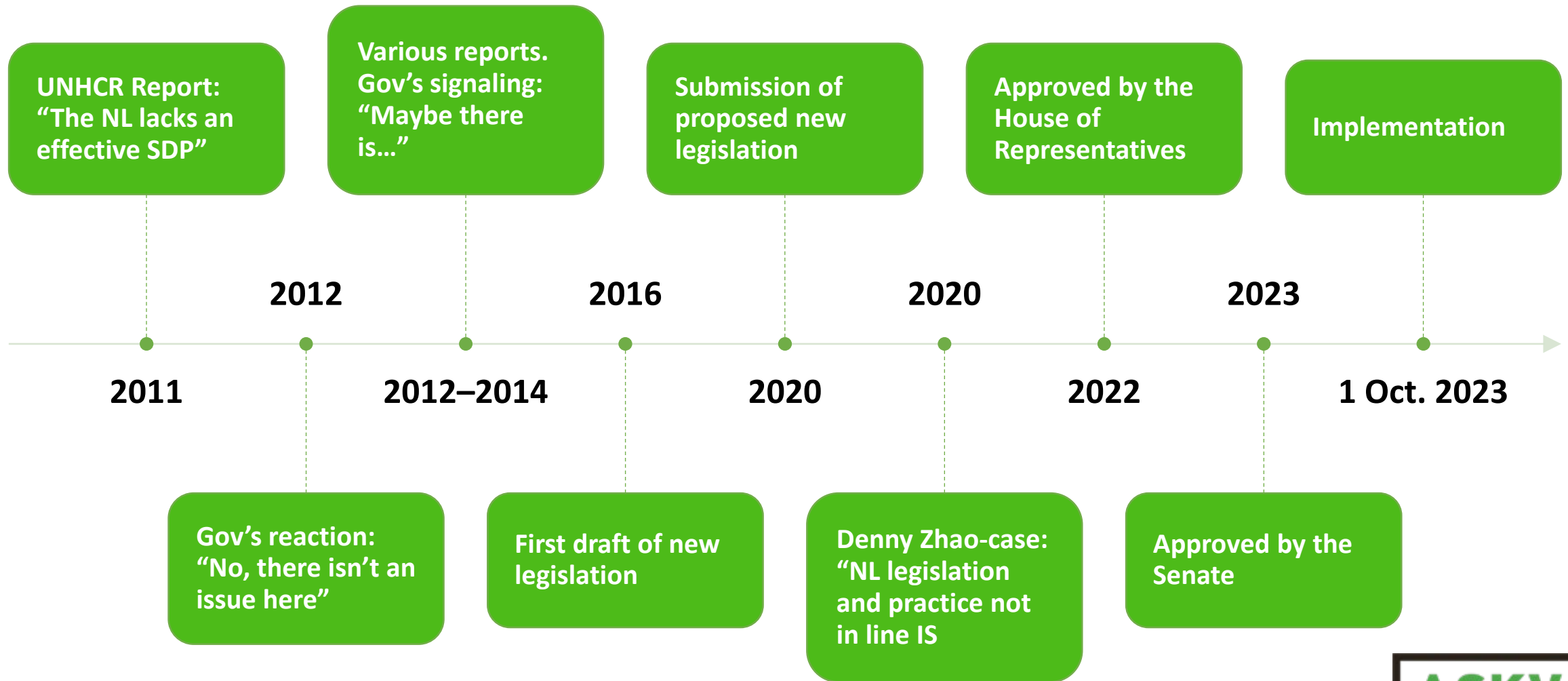
### **Statelessness Determination Procedure**

- Formal procedure established within civil law framework
- Involvement of civil judges and municipalities in status determination

### **Pathway to Dutch Nationality for Stateless Children**

- Expansion of nationality rights to stateless children born in the NL without legal residence
- Introduction of requirement for “uninterrupted stable residence” for a minimum of 5 years

# THE LEGISLATIVE PROCESS 2011-2023



# DENNY ZHAO v. THE NETHERLANDS

## BACKGROUND

## UN HUMAN RIGHTS COMMITTEE

Highlighted significant gaps in Dutch statelessness determination procedures and rights

## IMPACT AND OUTCOME

Underscored the necessity and influenced the push for legislative reform

Brought attention to the plight of stateless people in the NL





# STATELESSNESS DETERMINATION PROCEDURE



## Civil Law Framework

...and not migration law

Recognition of statelessness treated as a determination of civil status



## Involvement of Civil Judges and Municipalities

Primary responsibility lies with the Court of The Hague

Municipalities, particularly in instances of “obvious statelessness



## Guidelines and Standards

Procedure follows UNHCR guidelines regarding types of evidence and burden of proof

# CHALLENGES OF THE NEW PROCEDURE

**Lack of  
Residence Rights  
Attachment**

**Access Issues for  
Undocumented  
Stateless People**

**Council of State  
Criticism**

**Incompatibility  
with International  
Norms**

# ACCESS TO NATIONALITY FOR STATELESS CHILDREN

## INCLUSION OF CHILDREN WITHOUT LEGAL RESIDENCE RIGHTS

Amendment extends the right to acquire Dutch Nationality

### RESIDENCE REQUIREMENT

Stateless children must demonstrate “uninterrupted stable residence” in the NL for a minimum of 5 years to qualify

### REDUCED REQUIREMENT

Originally proposed as a 10-year requirement, negotiations led to a reduction to 5 years, albeit still posing challenges

# ISSUES WITH “STABLE RESIDENCE” REQUIREMENT

## INTERPRETATION ISSUES

- What constitutes stability
- Potential for subjective judgements by authorities

## VIOLATION OF INTERNATIONAL NORMS

“Stable residence” may conflict (art. 1 1961 Convention) with the right of stateless children to acquire nationality (art. 7 CRC, art. 24 ICCPR) without discrimination based on their parents’ status or actions (art. 2 CRC)

## RECOMMENDATIONS IGNORED, art. 24

In particular to adhere to the requirement of “habitual residence”

# MIXED RESULTS

## REMAINING CHALLENGES: DISCRIMINATION & MARGINALIZATION

- New legislation, differential treatment between children with and without legal residence rights
- Undocumented stateless persons remain in legal limbo, lacking a dedicated legal status and access to fundamental rights

## LONG-TERM EVALUATION

- The legislation provides for an evaluation in 2028

## NEED FOR CONTINUED ADVOCACY

- Importance of continued advocacy efforts by NGOs, legal practitioners and affected individuals

# THANK YOU

[robin@askv.nl](mailto:robin@askv.nl)

For more info &  
publications

[www.askv.nl](http://www.askv.nl)

and/or

[index.statelessness.eu  
/country/netherlands](http://index.statelessness.eu/country/netherlands)



European  
Network on  
Statelessness



STATELESSNESS  
**INDEX**

PARTNER



**ASKV** ←

steunpunt vluchtelingen