

# The nationality of children

## Recommendation CM/Rec (2009) 13

### Key issues

#### The challenge

The challenge, when drafting the Recommendation on the nationality of children, was to identify and analyse current issues which prevent children both from having a nationality and from being able to acquire the nationality of their parents or of their country of birth and residence.

#### Characteristics of the new recommendation

High priority has been given to continuing to reduce the number of cases of stateless-

ness, on the one hand, and, on the other hand, developing more precise and detailed rules on the position of children in nationality law. The present recommendation thus develops rules and principles aiming at the reduction of statelessness of children and formulates others, aimed at improving the access of children to the nationality of their parents and their country of birth and residence.

The recommendation includes chapters on reducing statelessness, nationality as a consequence of a child-parent

family relationship, children born on the territory of a state to a foreign parent, position of children treated as nationals, rights of children in proceedings affecting their nationality and registration at birth.

#### Particular aim of this recommendation

The recommendation's main aim is to reduce statelessness of children, facilitate their access to a nationality and ensuring their right to a nationality.

### Questions and answers

#### What is nationality?

*Nationality* means the legal bond between a person and a state and does not indicate the person's ethnic origin.

#### What is statelessness?

*Statelessness* means the situation where a person is not considered as a national by any state under the operation of its internal law.

#### Why do we need a new recommendation?

The Council of Europe has striven for many years to set

minimum standards in the field of nationality and has produced a number of legal instruments in the field.\*

Today children are at the centre of our attention: they are seen as subjects possessing their own rights and obligations, rather than mere objects of international law. In this perspective, the Recommendation on the na-

\* Mainly the 1997 European Convention on Nationality (CETS No. 166), the 2006 Convention on the Avoidance of Statelessness in Relation to State Succession (CETS No. 200) and Recommendation 99 (18) on the avoidance and the reduction of statelessness.

tionality of children aims at avoiding statelessness of children and facilitating their acquisition of the nationality of their parents and of their state of birth and residence.

Aside from the prevention of statelessness, the recommendation addresses a variety of situations: cases of children of unmarried couples, of foreign children adopted by nationals, of children conceived through medically assisted reproductive techniques and of children of parents of foreign origin born or

growing up in their state of residence.

The recommendation also focuses on the rights of children in proceedings affecting their nationality in order to ensure that children are consulted and their views and wishes are taken into account, that they have the

right to file applications and challenge decisions.

Finally, although the right to nationality and to be registered at birth is set out in the UN Convention on the Rights of the Child of 1989, a great number of children are not registered, which may have consequences

for their acquisition of a nationality and put them at risk of being stateless. The need to register the birth of all children born on the territory of a member state of the Council of Europe is thus clearly spelled out in the recommendation.

## The future

### How can member states make use of this recommendation?

In this recommendation member states are asked to be guided in their legislation, policies and practice by its rules and principles. It is important that this recommendation is disseminated as widely as possible to the competent authorities and awareness raised.

In nationality law co-operation between states is very important, co-operation and exchange of information on nationality among member states is of great use in order to ensure that a child has access to a nationality.

### Follow-up work by the Council of Europe in this field

The 4th Council of Europe Conference on Nationality, enti-

tled "The changing concepts of nationality in today's and tomorrow's globalised world", and dealing *inter alia* with multiple nationality, the human rights dimension, and citizenship and mobility will be organised in 2010 to pave the way for future work. This conference will be an ideal base to publicise the recommendation and raise awareness.

<http://www.coe.int/nationality/>