



## [Netherlands - District Court Zwolle, AWB 09/2212](#)

Confirmation of acquisition of Dutch nationality was wrongly refused. The court is of the opinion that the provisions from the Statelessness Convention must be regarded as provisions of international law binding on everyone, as referred to in Article 94 of the Constitution. This means that the admission requirement (of 3 years) set by the defendant is contrary to article 1 of the Convention.

**Case status:** Decided

**Case number:** AWB 09/2212

**Citation:** ECLI:NL:RBZLY:2010:BN6394

**Date of decision:** 09/09/2010

**State:** Netherlands

**Court / UN Treaty Body:** District Court Zwolle (Rechtbank Zwolle)

**Language(s) the decision is available in:** Dutch

**Applicant's country of residence:** Netherlands

**Legal instruments:** 1961 Statelessness Convention

**Key aspects:** Acquisition of nationality, Childhood statelessness, Residence permit

**Relevant Legislative Provisions:**

Article 6 of Dutch Nationality Act.

Article 94 of the Dutch Constitution.

Article 1 of 1961 Statelessness Convention.

### **Facts**

Applicant was born in Z on April 21, 2001. Not in dispute is that the parents of the applicant are stateless Palestinians from Lebanon and that the applicant too is stateless from birth. The claimant has been resident in the Netherlands without interruption, but without legal permission to stay.

### **Legal arguments by the applicant**

The claimant takes the position that the defendant wrongly refused the confirmation of the acquisition of Dutch nationality. The admission requirement is contrary to Article 1 of the New York Convention, limiting statelessness. Paragraph 2 (7).

### **Legal arguments by the opposing party**

**Para 2 (13)** : The respondent takes the position that the condition in Article 6, first paragraph, preamble and under b, of the RWN that the alien must have been admitted for at least three years is in accordance with the aforementioned provisions of the Statelessness Convention. A permanent residence can only be considered if the competent authority has agreed to this.

### **Decision & Reasoning**

Confirmation of acquisition of Dutch nationality was wrongly refused. The court is of the opinion that these provisions from the Statelessness Convention must be regarded as provisions of international law binding on everyone, as referred to in Article 94 of the Constitution. It does not follow from the text of the treaty that the competent authority has to agree to this permanent residence. The provisions of Article 6, first paragraph, preamble and under b, of the RWN (Dutch Nationality Act), insofar as this requires that the stateless alien has been admitted for at least three years, should therefore have been excluded, now that this provision is contrary to a binding provision of international law for everyone.

### **Decision documents**

[ECLI NL RBZLY 2010 BN6394.pdf](#)

### **Outcome**

The court ordered the defendant, taking into account what has been considered in this judgment, to decide again on the objection.

The Dutch immigration office decided to grant the applicant an asylum permit retroactively. A change in the Dutch Nationality Act was therefore prevented.

### **Links to other relevant materials related to the case (blogs, analysis, articles, reports, etc.)**

<https://www.inlia.nl/nl/nieuws/278/rechtbank-zwolle-nederlandse-national...>

<https://www.unicef.nl/nieuws/2011-01-06-statenloze-kinderen-krijgen-nede...>

<https://www.statelessness.eu/sites/www.statelessness.eu/files/attachment...>

<https://pilpnjcm.nl/wp-content/uploads/2016/11/ECD-1507-Zhao-5-Communica...>

<https://www.refworld.org/pdfid/4eef65da2.pdf>

[https://www.wodc.nl/binaries/JV1802\\_Volledige%20tekst\\_tcm28-327814.pdf#p...](https://www.wodc.nl/binaries/JV1802_Volledige%20tekst_tcm28-327814.pdf#p...)