



Committee on the Rights of the Child  
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## Submission to the Committee on the Rights of the Child on its General Comment No. 27

### Introduction

The Norwegian Organisation for Asylum Seekers (NOAS) is a non-governmental organization committed to protecting the rights of asylum seekers and refugees in Norway. Our work includes a particular focus on the rights of children within the immigration system, where we observe challenges in their access to justice and effective remedies.

We welcome the Committee on the Rights of the Child's initiative to draft General Comment No. 27 on children's rights to access to justice and effective remedies, and we appreciate the opportunity to contribute to this important process.

### Addressing Key Barriers to Children's Access to Justice in the Norwegian Immigration System

In this submission, we wish to highlight the barriers we observe as legal advisors in the field of immigration, particularly those which impact the ability of children in Norway to access justice and effective remedies.

### The Child's Right to Be Heard in Immigration Cases

In Norway, children often face barriers to exercising their right to be heard, as stated in Article 12 of the Convention on the Rights of the Child. These barriers manifest themselves through a lack or few *direct* hearings with children, particularly in cases handled by the Directorate of Immigration (UDI) and the Immigration Appeals Board (UNE).<sup>1</sup> Furthermore, the lack of competence for officials interviewing children, combined with inadequate interview environments, functions also as a barrier to justice and effective remedies.

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<sup>1</sup> See for instance the report "Barnets beste i asylsaker" dated 12 April 2024. It can be found on this webpage <https://www.udi.no/globalassets/global/aktuelt/20240315-kpmg-rapport---barnets-beste-i-asylsaker---uu.pdf> (last checked 23 August 2024)

## Legal Protection of Stateless Children

Children born stateless in Norway who have continuously resided in the country for three years have the right to acquire Norwegian citizenship – irrespective of their immigration status – in accordance with a government instruction issued in 2016. Since the instruction has still not been made into a law or regulation, the awareness of this legal remedy is low, including among seasoned immigration lawyers. The situation has been recently improved by including detailed information about the citizenship application process, specifically tailored for stateless persons born in Norway, directly on the application portal of the Norwegian Immigration Directorate. This nevertheless presupposes that prospective qualifying applicants are correctly identified and referred to the citizenship application procedure.

A separate issue concerns the lack of an effective procedure in Norway for identification and protection of stateless persons generally. While practical obstacles preventing return to the country of previous habitual residence may provide grounds for a residence permit in a no-fault procedure, a long list of issues render this procedure ineffective. Access to the no-fault procedure requires a final rejection in the asylum procedure, where practical obstacles preventing return are considered irrelevant, including in cases where applicants do not raise any asylum related issues. Furthermore, the remedy is discretionary, there is no right to free legal aid and the decision is only made in one instance - the Immigration Appeals Board.

## Barriers to Justice in Asylum Rejection Procedures

Under Norwegian immigration law, certain types of rejection decisions in asylum cases may be enforced immediately. This includes inadmissibility decisions based on the concepts of first country of asylum and safe third country. The Directorate of Immigration (UDI) typically does not conduct asylum interviews in inadmissibility procedures, relying instead on information recorded by the police. Except unaccompanied minors, asylum seekers in inadmissibility procedures, including families with children, do not have the right to free legal assistance. Furthermore, appeals against inadmissibility procedures do not have an automatic suspensive effect, which exposes asylum seekers, including children, to the risk of *refoulement*.

## Lack of Free Legal Aid

Children involved in cases where their residence permits or citizenship are revoked face considerable challenges due to the lack of free legal aid at the initial stages. Without access to adequate legal representation in the initial stages, these children and their families are often unable to effectively challenge decisions that could have significant impacts on their lives.

This also applies to children who face return to a safe third country where they may hold residence permits. These children often do not receive free legal aid. This lack of legal support puts their right to a fair assessment of their individual circumstances at risk.

## Lack of Adequate Representation

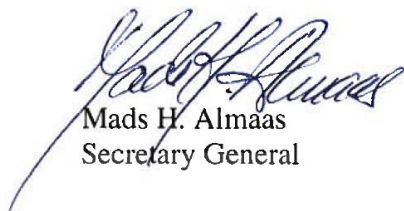
For most children, parents play a positive role in facilitating their access to justice. However, conflicts of interest may arise between the child and their parent's immigration case, for instance, in revocation and expulsion cases. Consequently, the child's own interests are not always fully represented in these cases.

## Conclusion

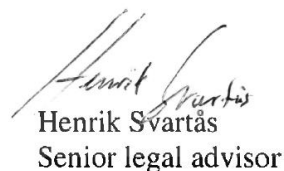
The Norwegian Organisation for Asylum Seekers (NOAS) is committed to advocating for the rights of children within the immigration system. We ask the Committee on the Rights of the Child to consider the barriers mentioned above in the final General Comment No. 27. By addressing these issues, we believe that Norway and other States Parties can better fulfill their obligations under the Convention on the Rights of the Child, ensuring that all children have access to justice and effective remedies within the immigration system.

Best regards

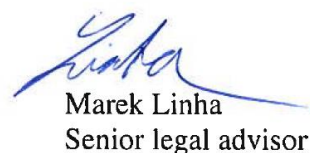
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