

TOOLKIT TO IDENTIFY AND ADDRESS STATELESSNESS



ROMANIA

May 2024



European
Network on
Statelessness

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LIST OF ABBREVIATIONS

1954 Convention	1954 UN Convention relating to the Status of Stateless Persons
1961 Convention	1961 UN Convention on the Reduction of Statelessness
1951 Convention	1951 UN Convention relating to the Status of Refugees
ECN	1997 Council of Europe - European Convention on Citizenship
ECHR	1950 Council of Europe - European Convention for the Protection of Human Rights and Fundamental Freedoms
ECtHR	European Court of Human Rights (based in Strasbourg)
CRC	1989 UN Convention on the Rights of the Child
SDP	Statelessness determination procedure
UNHCR	United Nations High Commissioner for Refugees
Asylum Law	Law 122/2006 on Asylum in Romania
Foreigners Law	Governmental Emergency Ordinance no. 194/2002 on the legal regime of foreigners in Romania
Citizenship Law	Law 21/1991 on Romanian Citizenship
ENS	European Network on Statelessness

1. TERMINOLOGY

In this guide we use the following terms as defined below.

Citizen/national: in an international context, these terms are often used to mean the same thing, i.e. a legal bond between a person and a State, which usually allows an unrestricted right of residence on the territory, full civil and political rights, access to national identity and travel documents, and the ability to freely leave and return to the territory. However, in the Romanian legal system, and therefore in this Toolkit, the word 'nationality' is used to denote ethnicity, race, or origin, and does not determine the legal status of the individual. The word 'citizenship' is used to denote the legal bond between a person and a State.

Own country / home country / country of former habitual residence: these terms refer to a country in which a stateless person was born or has previously lived. Habitual residence means stable, factual residence, which covers 'those stateless persons who have been granted permanent residence, and also applies to individuals without a residence permit who are settled in a country, having been there for a number of years, who have an expectation of on-going residence there'.¹

Host country: it refers to a country in which a stateless person lives and is seeking to be recognised and granted residence, protection status, and/or citizenship.

***In situ* statelessness (vs migratory statelessness):** *in situ* statelessness refers to the situation in which a person is stateless even though they have long-established ties to a country, often because they have long-term residence or were born in that country. Generally, their statelessness is the result of issues in the framing and/or implementation of citizenship laws, and they should be recognised as citizens of this country (if they wish this). This contrasts with migratory statelessness, which refers to statelessness that occurs as a cause or a consequence of displacement, usually amongst people who have migrated from one country to another (or their children); the preferred remedy for them may be recognition and protection as stateless people and/or acquisition of the citizenship of the host country.

***Jus soli* citizenship/birthright citizenship:** citizenship that is acquired because of being born on the territory of a state. In some countries, acquisition of citizenship may be dependent on other conditions, such as one parent having lawful residence in the country (restricted *jus soli*).

***Jus sanguinis* citizenship:** citizenship that is acquired based on the citizenship of a person's parents or ancestors.

Asylum-seeker: it refers to a person who is requesting asylum or another form of international protection, usually because they fear persecution or serious harm. Many asylum-seekers are refugees but have not yet been recognised as such.

Refugee: under the 1951 Convention relating to the Status of Refugees, a refugee is a person who has a *'well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection*

¹ See UNHCR [Handbook on Protection of Stateless Persons](https://www.unhcr.org/dach/wp-content/uploads/sites/27/2017/04/CH-UNHCR_Handbook-on-Protection-of-Stateless-Persons.pdf) (2014), Para 139 (hereinafter 'UNHCR's Statelessness Handbook'), available at: https://www.unhcr.org/dach/wp-content/uploads/sites/27/2017/04/CH-UNHCR_Handbook-on-Protection-of-Stateless-Persons.pdf

of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.'

A person *is* a refugee if they meet this definition (or if they are a Palestinian in certain circumstances)² whether the person has been officially recognised as a refugee. Regional or national legislation may also have different definitions and protection frameworks that are wider than the international definition of the 1951 Convention.

Stateless person: a person '*who is not considered as a national by any State under the operation of its law*' (1954 Convention, Article 1). A person who meets this definition is stateless, whether their statelessness has been officially recognised.³

Undetermined or unknown citizenship: it refers to a situation where a person's citizenship or lack of citizenship is not yet confirmed. These terms should be used with extreme caution for the shortest possible time and should always trigger a formal determination of the person's citizenship or statelessness. People who identify themselves as stateless should generally be recorded as stateless and referred to an appropriate procedure to determine their statelessness (or citizenship), in line with international law.

Statelessness determination procedure (SDP): a legal process by which an individual, usually in a migratory context, is officially recognised as a stateless person and granted stateless status in a host country (including residence and socio-economic rights).

Nationality determination procedure: a process by which an individual's citizenship is determined (usually in the country in which they were born) and which may also determine that the person has no citizenship. This procedure should be applied to children soon after birth for the purposes of determining and recording their citizenship.

2. INTRODUCTION TO STATELESSNESS IN ROMANIA

Following the end of communist rule in 1989 and the EU accession process, Romania acceded to the international statelessness conventions in January 2006 (though it was already a party to other international human rights instruments). However, reliable data on the stateless population in Romania is lacking, with figures only available for those who have a residence permit.⁴ During the 1990s, attention was given to statelessness among the Romani population as well as people of Romanian origin who renounced their citizenship⁵ and returned from

² Pursuant to Article 1D of the Refugee Convention and other international law and UN resolutions. See [Palestinians and the Search for Protection as Refugees and Stateless Persons](#) (ENS & BADIL, 2022), available at: <https://www.statelessness.eu/updates/publications/palestinians-and-search-protection-refugees-and-stateless-persons>

³ A distinction between *de jure* and *de facto* statelessness is not made in this guide, as it is not relevant for the purposes of determining whether a person is stateless under the 1954 Convention. The term *de facto* stateless is not defined in international law and it is recommended to avoid it, as broader interpretations of the term have been used to unduly exclude from protection persons who are stateless under Article 1(1) of the 1954 Convention. For example, a person who should be considered stateless in accordance with a state's law but is not in practice recognised as a national by the authorities of that state, is considered stateless 'under the operation' of that state's law.

⁴ Available at: <https://index.statelessness.eu/country/romania>. See also Chapter 12 Resources.

⁵ After December 1989 a significant number of Romanians emigrated to countries with a higher economic standard. At that time, there was the possibility to renounce Romanian citizenship (Law no. 21/1991 on Romanian Citizenship

Germany under a 1998 readmission agreement.⁶ After joining the EU in 2007, Romania shifted its focus to advocacy for improved recognition of statelessness and procedural frameworks.

Despite acceding to the relevant international conventions, including the 1954 and 1961 UN Conventions and the European Convention on Nationality (albeit with some significant reservations),⁷ Romania still lacks a statelessness determination procedure (SDP) and there are significant gaps in safeguards to prevent statelessness. The primary groups affected by statelessness in Romania include people of Romanian origin who lost or renounced their citizenship, undocumented Romani people, former Greek refugees from the 1970s, and stateless refugees, mainly Palestinians.

Domestically, Romania's legal framework - including the Constitution,⁸ Citizenship Law, and laws on civil registries, foreigners, and asylum - integrates human rights treaties directly into national law. This means that human rights treaties have a direct effect and prevail over domestic law. A stateless person is defined in Romanian law as '*a person who does not have the citizenship of any State*', which is narrower than the 1954 Convention definition, but, in practice, the courts apply the Convention definition. Stateless individuals are generally treated in line with foreigners with legal residence, with some specific provisions for those of Romanian origin concerning travel documents and passport regulations.

Romania faces a significant data gap regarding individuals at risk of statelessness, complicating efforts to address this issue.⁹ The 2021 census recorded only 54 stateless individuals, while in 2023, 288 stateless individuals received residence permits, including 113 with international protection.¹⁰ The documented stateless population comes from various countries including Syria, Lebanon, Kuwait, Palestine, Israel, Jordan, Saudi Arabia, UAE, and Greece.¹¹ Of this recorded population, there were 113 women and 174 men, with different residence statuses including permanent residence, international protection, family member status, study permits, work visas, and other purposes. However, these statistics likely underrepresent the true scope of statelessness in Romania, as undocumented stateless individuals are not counted in official figures.¹²

In Romania, identity documents and rights are linked to residence or immigration status. Stateless individuals have access to a range of rights, including health insurance, public

was amended in this respect only in 1999). Many people renounced Romanian citizenship, hoping to regularise their stay in receiving countries, but without the guarantee that they would be able to acquire the nationality of these countries. This led to many people of Romanian origin becoming stateless, according to UNHCR, some 20,000 in Germany, 9,000 in Austria, and 3,000 in Sweden.

⁶ A few hundred people were returned under this agreement, and at least two cases were submitted before the ECtHR (Mogos & Krifka v. Germany, case no. 78084/01, decision issued on 27.03.2003 and Mogos v. Romania, case no. 20420/02, decision issued on 13.10.2005, also Dragan v. Germany, case no. 33743/03, decision issued on 07.10.2004).

⁷ Although the 1954 Convention has a direct effect, Romania reserves the right to grant public relief only to stateless refugees (Article 23), to grant identity papers only to stateless people with a residence permit (Article 27), and to expel a stateless person staying lawfully on the territory if they commit a criminal offense (Article 31).

⁸ The Romanian Constitution establishes modes of loss and acquisition of citizenship (Art 5), protection afforded to foreigners (Art 18), expulsion and extradition (Art 19), and the principle that the rights and liberties of citizens are interpreted and enforced in accordance with the Universal Declaration of Human Rights and other international treaties (Art 20).

⁹ ENS Index <https://index.statelessness.eu/country/romania>

¹⁰ <https://www.mai.gov.ro/comunicat-de-presa-974/>

¹¹ Lebanon, Kuwait, Palestine, Israel, Jordan, Saudi Arabia, and the United Arab Emirates.

¹² Joint Submission to the Human Rights Council, Universal Periodic Review, 43rd Session, 4th Cycle, April-May 2023, https://files.institutesi.org/UPR43_Romania.pdf, p 4

pensions, social assistance, and education, provided they have a permanent residence permit or are legally domiciled in the country. Nevertheless, they do not have priority for housing and only citizens may vote. Stateless people with international protection or a valid residence permit can reunite with family and receive legal aid. Although Romania does not issue travel documents under the 1954 Convention, it accepts those issued by certain countries.¹³

KEY STAKEHOLDERS AND THEIR ROLES

The General Inspectorate for Immigration [*Inspectoratul General pentru Imigrări*] - exercises the tasks given to it by law for the implementation of Romania's policies in the fields of migration, asylum, and integration of foreigners. In relation to statelessness this includes: verifying that foreigners fulfil the necessary conditions for granting and prolongation of residence; extending the right of temporary residence; granting the right of long-term stay; exercising legal powers on removal of foreigners from Romania; making proposals to apply and extend the public custody of foreigners who cannot be removed within 24 hours; granting toleration as temporary permission to remain in Romania; dealing in the administrative stage with asylum requests; conducting country of origin information research - <https://igi.mai.gov.ro/>.

The General Inspectorate of Border Police [*Inspectoratul General al Poliției de Frontieră*] - responsible for border-related matters, including access to the territory (except for asylum cases in border crossing points), control of required documents, registration of legal status and other relevant data for entry and exit - <https://www.politiadefrontiera.ro/>.

The National Authority for Citizenship [*Autoritatea Națională pentru Cetățenie*] - performs duties inter alia: keeping records of applications for granting, reacquiring, renouncing, and withdrawing Romanian citizenship, compiling files for each individual case; ensuring the necessary conditions for carrying out the activity of the Commission for Citizenship and providing its secretariat; drawing up the draft orders of the President of the Authority regarding the granting, reacquisition, withdrawal, and renunciation of Romanian citizenship, as well as the draft orders rejecting these requests - <https://cetatenie.just.ro/>.

The Directorate for Persons Record and Databases Management [*Direcția Generală pentru Evidența Persoanelor*] - tasks include organising, coordinating, and monitoring the application by the specialised community public services, of the legal regulations in the field of records of people, civil status, and the administrative change of the names of natural people; elaborating the working norms and methodologies used by community public services for the registration of people; updating, using and validating the data from the National Register of Persons - <https://depabd.mai.gov.ro/>.

The National Authority for the Protection of the Rights of the Child and Adoption [*Autoritatea Națională pentru Protecția Drepturilor Copilului și Adopție*] - has the mission to protect and promote the rights of children in Romania. It has three main tasks: strategic - developing public policy documents, and applying strategies and reforms in the field of protection and promotion of children's rights and adoption; regulatory - ensuring harmonisation of the legislation in its areas of competence with the provisions of treaties and international conventions; control and monitoring - ensuring compliance with the law relating to protection and promotion of the rights of the child and adoption, and ensuring methodological guidance in the field of protection and promotion of children's rights and adoption - <https://copii.gov.ro/1/>

¹³ Ministerial Order no. 1124/2015 of the Ministry of Foreign Affairs regarding the list of travel documents accepted by Romania, Official Gazette no. 566 of 29.07.2015, <https://legislatie.just.ro/public/DetaliiDocument/170152>

The National Authority for Roma [Agenția Națională pentru Romi] - elaborates the Government's policy and strategy in the field of respecting, promoting, and affirming the rights of the Roma minority. It implements, monitors, and evaluates measures in the fields of intervention set out in the Government's strategy on inclusion of the Roma minority - <http://www.anr.gov.ro/>.

UNHCR Romania - a global organisation working to save lives, protect rights, and build a better future for refugees, internally displaced communities, and stateless people. It has a special role in tackling statelessness related issues, including support provided to relevant stakeholders in fulfilling their tasks and obligations in this specific area - <https://www.unhcr.org/ro/>

UNICEF Romania - a global organisation with a special role related to child protection, including migrant and refugee children, including ending childhood statelessness - <https://www.unicef.org/romania/>.

3. WHAT IS STATELESSNESS AND WHY IS IT A PROBLEM?

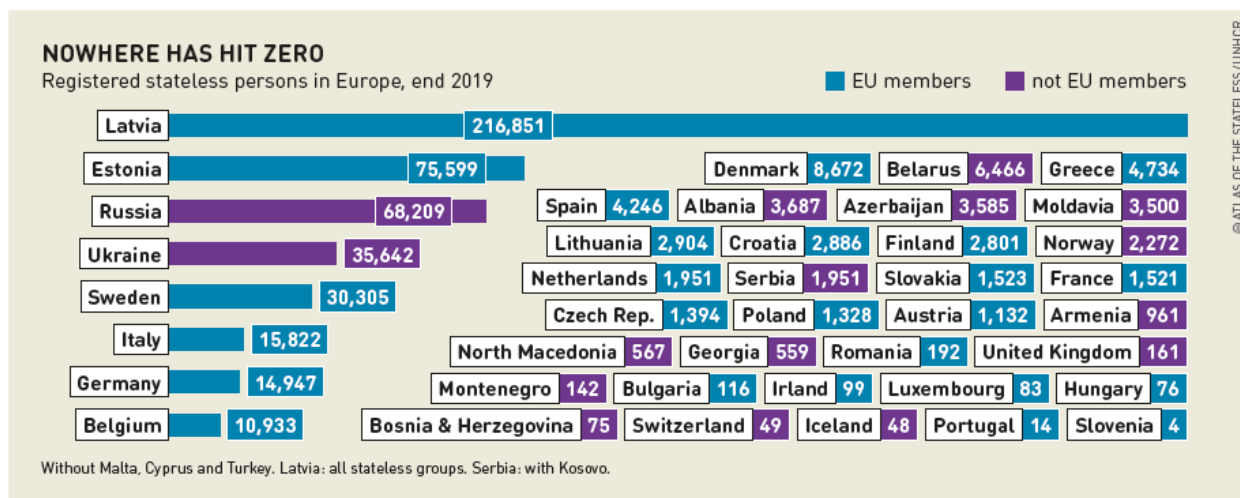
To be stateless is not to be recognised as a national of any country. Stateless people have specific rights under international law, many of them parallel to the rights of refugees. The two main international instruments addressing statelessness are the 1954 Convention and the 1961 Convention. Other international and regional declarations and agreements are relevant in some contexts.

Article 1 of the 1954 Convention defines a stateless person as someone *'who is not considered as a national by any State under the operation of its law'*. This definition is also considered to be customary international law. [UNHCR's Handbook on Protection of Stateless Persons](#) confirms that this definition requires consideration of legislation and the way that laws and policies are applied in practice.

Statelessness is a global problem affecting half the world's countries, with an estimated 10-15 million people living without any citizenship.¹⁴ Unaddressed, statelessness is a cause of denial of access to fundamental rights and opportunities. It often means that people cannot reach their full potential because they are prohibited from working, unable to access education and/or healthcare, and unable to participate fully in society or democratic processes. They are often forced to live in poverty and may be subjected to unlawful detention, exploitation, and discrimination. These circumstances and other experiences may have severe impacts on their mental health and their overall wellbeing. Finding solutions for stateless people brings many benefits for individuals and societies. In addition to protecting fundamental human rights, the recognition and resolution of statelessness contributes to social and economic development.¹⁵

¹⁴ <https://reliefweb.int/map/world/peoples-without-state-locations-and-causes-statelessness-30-mar-2016>

¹⁵ See UN Human Rights Council Resolution 63/16 adopted on 13 July 2023 The right to a nationality: equality in nationality rights in law and in practice recognising some of the many complexities of statelessness, the harm it causes, and calling for States to take action to fulfil the right to a nationality: <https://documents.un.org/doc/undoc/gen/g23/150/98/pdf/g2315098.pdf?token=7UKeRmb9dGtDgN1aAs&fe=true>



Source: Atlas of the Stateless, Facts and figures about exclusion and displacement, October 2020.

The stateless population in Romania remains largely unmapped, with existing data proving incomplete and unreliable. Consequently, statelessness often remains hidden within available datasets, exacerbated by the failure to identify individuals who may be citizens or eligible for Romanian citizenship but lack proper registration. This lack of legal identity disproportionately impacts on Romani communities in the country. Additionally, certain populations are entirely absent from existing data, including individuals who have been erroneously attributed a citizenship by officials, such as Palestinians entering Romania with travel documents from another country,¹⁶ or children born in Romania to parents whose countries of citizenship require a complex procedure for conferring citizenship, which may go unfulfilled due to lack of awareness or inability to complete the process.

There are also significant gaps in Romanian citizenship law, particularly regarding safeguards for stateless children born in the country. While foundlings are granted Romanian citizenship by law, administrative barriers, and the potential for later establishment of parentage pose risks of statelessness. Additionally, while children born to Romanian nationals abroad are automatically granted citizenship, reports of discriminatory practices in birth registration procedures highlight ongoing challenges.

Furthermore, access to birth registration has improved in recent years, yet shortcomings persist in determining a child's citizenship, particularly for marginalised groups such as refugees, Roma, and children in rainbow families. Moreover, the possibility of naturalised Romanians being deprived of citizenship without strong safeguards to prevent statelessness underscores the systemic vulnerabilities present within the current legal framework.

Statelessness may be identified during asylum or tolerated stay procedures, but there is no obligation on authorities to determine a claim of statelessness. Free legal aid and interpreting are available, and general procedural safeguards apply. However, rights granted are not based on statelessness, but rather the person's residence or international protection status.

¹⁶ Palestinians are attributed a nationality when they come with documents from other countries. Romania recognised Palestine on 16 November 1988. Based on this recognition, in January 1989, the Permanent Representation of the OPT in Bucharest was elevated to the rank of the Embassy of Palestine. For more information, see: <https://mae.ro/bilateral-relations/5585#945>

Stateless people who qualify for a residence permit, international protection or tolerated stay will be issued with identity documents, but statelessness is not a priority category for access to social housing.

For more information, see:

ENS's leaflet [Statelessness: What do you need to know?](#)

ENS's [Short Guide for Refugee Response Actors](#).

ENS campaign presenting a story from Romania [Still Stateless, Still Suffering](#)

For more recent figures, see UNHCR's annual [Global Trends Report](#).

Hear from people with lived experience of statelessness [here](#).

4. IDENTIFYING STATELESSNESS

Statelessness arises in a wide range of circumstances and may directly or indirectly be caused by:

- Discrimination based on sex, sexual or gender identity, ethnicity, religion, or other factors;
- Gaps or restrictions in citizenship laws, often but not necessarily linked to state succession;
- Conflicts of citizenship laws between various countries;
- Issues relating to state sovereignty and incomplete recognition of statehood;
- Obstacles in civil registration procedures and practices, particularly birth registration;
- Arbitrary deprivation of citizenship, including for political reasons;¹⁷
- Armed conflict (inability to access birth registration or documents due to conflict, etc);
- Climate change resulting in forced displacement and/or destruction of states;¹⁸
- Other laws, policies, practices, or circumstances not listed above, especially when adequate safeguards to prevent statelessness are not in place.

Some States cause statelessness, or cause it to continue, through ostensibly neutral or in some cases allegedly positive laws and policies that result in statelessness and/or the failure to protect stateless people. For example, a citizenship law that restricts citizenship to people who were resident in a country at a particular time is neutral on its face, but it excludes people who have a strong connection to that country but who were not resident at the requisite

¹⁷ Deprivation of nationality is often used as a punishment for human rights advocacy or opposition to government oppression, and increasingly in Europe as a counter-terrorism measure, even when it leads to statelessness. See e.g. SALAM DHR, ISI & Hawiati, [Arbitrary Revocation of Nationality in Bahrain: a Tool of Oppression](#) (2021), available at: <https://salam-dhr.org/arbitrary-revocation-of-nationality-in-bahrain-a-tool-of-oppression/>; ENS, [Statelessness Index Thematic Briefing: Deprivation of nationality and the prevention of statelessness in Europe](#) (2021), available at: <https://www.statelessness.eu/updates/publications/statelessnessindex-thematic-briefing-deprivation-nationality-and-prevention>

¹⁸ See e.g. Michelle Foster, Nicola Hard, Hélène Lambert and Jane McAdam, [Preventing Statelessness and Nationality Loss in the Context of Climate Change](#) (ENS, 2022), available at: <https://www.statelessness.eu/updates/blog/preventing-statelessness-and-nationality-loss-context-climate-change>

time.¹⁹ It is important to be aware that States are sometimes hostile towards stateless people, deny that state action or inaction has caused statelessness, or are unaware of the ways in which laws and policies result in statelessness or cause hardship for stateless people.

Statelessness in Romania arises from several circumstances (see Section 2) but remains mainly linked to migration, with 40% of recorded stateless people in the country being registered as beneficiaries of international protection. Statelessness may be identified or arise as a legally relevant fact in different proceedings requiring the determination of citizenship (e.g., asylum, return, or border procedures), but no procedure in Romania is tailored to determining statelessness nor leads to protection on the grounds of statelessness.

Citizenship and discrimination based on sex, gender, and/or sexual or gender identity

In numerous countries, citizenship laws discriminate based on sex, gender, and/or sexual or gender identity, sometimes preventing women or LGBTQI+ parents from passing on their citizenship to their children or discriminating in other ways that may lead to statelessness. For more information, see a [list of countries](#) whose citizenship laws discriminate against women and a [blog article](#) relating to discrimination based on sexual or gender identity and childhood statelessness.

HOW TO IDENTIFY STATELESSNESS

Sometimes statelessness is relatively obvious; other times, it is 'hidden'. For example, a person who has been deprived of citizenship for political reasons will often be aware that they are stateless (and may or may not have documentary evidence to prove it). In some situations, however, statelessness may remain unidentified for many years, particularly when a child is born outside their parents' country of citizenship and the laws of their home country require registration to acquire citizenship. Such children's statelessness may go unrecognised for many years, and as a result children may face challenges in accessing basic rights. Some people may not know that they or their children are stateless.

The EASO [now EU Asylum Agency] *Practical Guide on Registration* provides guidance on indications of statelessness, as follows²⁰:

Statelessness may not always be easy to identify. Stateless people seldom have proof of being stateless, might not be sure if they are stateless or might not be aware that they could be at risk of becoming stateless upon return. People at risk of statelessness may include, depending on the situation in the country of origin, people from border regions where a lack of civil registration may lead to confusion regarding whether they are nationals of one state or another; minorities and those who have perceived or actual ties with another state; nomadic populations; and populations with complex histories of displacement, for whom proving nationality of a country of origin may be difficult as a result of generations of descendants having been abroad.

¹⁹ See e.g. Neha Jain, [Manufacturing Statelessness](#), *American journal of international law*, 2022, Vol. 116, No. 2, 237-288, available at <https://cadmus.eui.eu/handle/1814/74741?show=full>; and see [R \(On the application of Marouf\) v Secretary of State for the Home Department](#) [2023] UKSC 23 (finding the UK's Syrian resettlement scheme's exclusion of Palestinians living in UNRWA areas of operation is lawful), available at: <https://caselaw.nationalarchives.gov.uk/uksc/2023/23>

²⁰ EASO Practical Guide on Registration: Lodging of applications for international protection, December 2021, <https://euaa.europa.eu/sites/default/files/publications/Practical-guide-registration-lodging-applications.pdf>

In the European context, commonly encountered profiles of people claiming statelessness include:

- *Palestinians from countries in the Middle East and North Africa;*
- *Kurdish populations from Syria and Iraq;*
- *the Bidoon from Kuwait and Iraq;*
- *the Rohingya people from Myanmar;*
- *Somalis from Ethiopia.*

Moreover, applicants being uncertain about their own nationality during the registration process may be an indicator that they might be at risk of being stateless.

Statelessness can be identified in various official procedures. Adequate training is vital for all those who work in procedures or institutions in which statelessness can be identified. Relevant procedures may include:

- Asylum and protection screening procedures
- Dublin Regulation procedures
- Refugee status determination procedures
- Refugee or statelessness family reunification procedures
- Refugee resettlement or humanitarian admission procedures
- Passport application procedures
- Stateless persons travel document application procedures
- Immigration detention procedures
- Return procedures
- Toleration procedures
- Temporary protection procedures
- Other immigration or human rights procedures
- Identification process of unaccompanied and separated children
- Appeal and judicial review procedures relating to any of the above

There are many indicators that may identify that a person is or may be stateless, including, for example:

- Have never had a valid passport or an identity card
- Have never had birth certificate or official documents from their country of birth
- Not able to be registered as a citizen in their home country
- From a stateless population or a country with a large stateless population (e.g., Rohingya, Bidoon, Palestinian, Kurd, Roma, Syria, Myanmar, Thailand, etc)
- Born in a country which no longer exists, is not universally recognised by other governments, and/or is occupied by another state
- Cannot obtain identity documents for themselves or their children
- Country of birth or former habitual residence refuses to renew travel or identity documents or allow return
- Difficulties reuniting with family members because they cannot obtain identity or travel documents
- Could not go to school, work, access healthcare, get married or register their child's birth or citizenship
- Detained for removal but not accepted for return to a country of birth or former residence

This list is not exhaustive. At the identification stage, what is most important is to at least record any initial indications of statelessness. Where a statelessness determination procedure does not exist, indications of statelessness should still be recorded and the individual should then be informed about and referred to the relevant procedure in their case (e.g. international protection, residence permit, citizenship application), and/or to a competent legal adviser. Whilst some stateless people may not be aware that they are stateless, others will have known for a long time but may have never been formally recognised as stateless. Many stateless people may find it difficult to talk about their lack of citizenship and other circumstances, especially if they have never had documentation and/or have had experiences of being disbelieved by authorities. The aim of the below questions should not be to give an individual the impression that the interviewer is trying to determine whether they are telling the truth about their statelessness or lack of documentation, but rather to assist in identifying whether the person is stateless and where the proof of their statelessness may lie. Many stateless people may have suffered traumatic experiences in their home countries, during journeys, or in host countries. This should be considered when conducting interviews with people who are or may be stateless; trauma-informed interviewing techniques should be used whenever possible.²¹

How can a person not know they are stateless? How can they be assisted?

Kea is a 50-year-old woman who was trafficked at age 13 from her home country to another country in Asia. She was sold into 'employment' as a maid, worked for very little pay, and experienced physical abuse. She never went to school and cannot read. On a visit to Europe with her employer, Kea seeks sanctuary in a church. A church worker accompanies Kea to a refugee charity. In an initial interview, Kea finds it very difficult to talk about her problems. She has no identity documents but knows which country she lived in until age 13. She has seen that her employer has a passport that has Kea's picture in it and is like his own passport. Kea was not involved in obtaining this passport and thinks it was obtained based on false information. She has never heard of statelessness.

Kea's lawyer takes time over several trauma-informed interviews to build trust with Kea, explain the law and procedures relating to seeking asylum and recognition as a stateless person, and check that Kea understands. The lawyer writes twice to the embassy of Kea's country of birth asking if Kea is considered a national of that country. She gets no response. A consular officer explains over the phone that, without identification documents, Kea cannot enter the embassy and will not be considered a citizen. They will not take any steps to confirm that Kea is from that country, nor accept her return. An expert report states that the circumstances Kea describes are consistent with objective reports and known facts. There is no lawful basis on which Kea would be considered a national of her employer's country, employers can easily purchase passports for migrant domestic workers in that country, and Kea would be unable to access protection if returned there. The report also states that, based on previous similar cases, it is highly unlikely that citizenship of Kea's country of birth could be confirmed. Upon application by the lawyer on her behalf, Kea is granted asylum and recognised as stateless.

²¹ For example, see: [Trauma Informed Interviewing Techniques](#): A toolkit for attorneys and other professionals working with immigrant children (Stanford Center for Health Education & University of Texas at Rio Grande Valley), available at: <https://digitalmedic.stanford.edu/our-work/trauma/>; and [Disclosing and identifying international protection needs in the Middle East and North Africa](#): Training Module, Part 3: Trauma-informed, victim-centered approaches (Center for Human Rights, Gender and Migration & MENA Community Protection Network (supported by UNHCR), available at: <https://data.unhcr.org/en/documents/download/100169>

Questions to consider and potentially ask to identify or elicit proof of statelessness or citizenship include:

Question	Information to look out for
Where and when was the person born?	
Does the person come from a country at high risk of statelessness, affected by state succession or a land dispute?	In particular, but not limited to: Ukraine; Russia; Palestine; Western Sahara; Bangladesh; Ivory Coast; Burma; Thailand; Syria; Kuwait; Uzbekistan; Saudi Arabia; Cambodia; Iraq.
Does the person belong to a specific group which is known to be affected by statelessness?	For example: Rohingya, Roma, Kurdish, Sahrawi, Kuwaiti Bidoon, Palestinian.
Was their birth registered and do they have a birth certificate? If so, is this proof of citizenship?	If not, risk of statelessness.
Does the person come from a country where birth registration is not routine or is complicated?	If yes, risk of statelessness.
Where has the person lived since birth? Of what country does the person consider themselves to be a citizen (if any)?	
Do the authorities of that country or any other country consider the person to be a citizen?	
Has the person ever applied for citizenship in any country? What was the outcome?	
Does the person have proof of having a citizenship, such as a certificate of citizenship, a valid national identity card or a passport? If not, why not?	
Does the person come from a country where women do not have the right to pass their citizenship on to their children in the same way as men? If yes, have they inherited their father's citizenship?	See a list of countries whose citizenship laws discriminate against women. If the person did not acquire citizenship from the father (e.g. because he is stateless or unknown), this is an indicator the person may be stateless.
Was the person able to go to school, work or register their marriage or the birth of their	If not, this may indicate a risk of statelessness.

children in their country of origin or usual place of residence?	
Does the person have, or did they have, one or several nationalities?	If not, risk of statelessness.
What citizenship(s) did the person's parents and grandparents have? Were there barriers to inheriting these citizenships?	Consider if they belonged to any groups affected by statelessness, or if there were barriers to proving family links.
Have any family members been deprived of their citizenship, for example for political reasons? If yes, was the person's citizenship affected?	
Does the person have a valid or expired identity document? If not, have they tried to obtain identity documents from another country?	If the person has tried to obtain identity documents and was refused or a response was delayed, risk of statelessness.
Has the person faced any challenges in obtaining or renewing their passport or national identity card?	
Has the person ever been excluded from access to certain rights or services on the grounds of their citizenship (or lack of citizenship)?	
Has the person started procedures with the relevant authorities to obtain identity documents? Do they have evidence of these steps? When did they start these steps? Have they had a reply from the authorities? If not, have they tried again? How many times? Are they in fear of persecution if they return? Have they submitted an asylum request?	Applicants should enclose evidence that any State with which they have links does not consider them to be its citizen. For more information on considering the fear of persecution and the procedure for determining statelessness, see Section 5.
What citizenship was registered by the authorities when the person arrived in Romania?	Officials often record a presumed citizenship, an adequate assessment of whether the person has the citizenship recorded should always be conducted.
Did the person have access to a statelessness determination procedure in another country? If yes, what was the relevant authority's decision?	
Does the person know that it is necessary to register their child with civil authorities and	Risk of statelessness for children of beneficiaries of international protection.

<p>the conditions for birth registration? Can the mother pass on her citizenship to the child?</p> <p>Did she encounter problems registering the child's birth (in Romania and with the authorities of her country)?</p>	
<p>Has the person been repeatedly detained in a host country, but no embassy acknowledges the person as a national?</p>	<p>If yes, risk of statelessness.</p>
<p>In the case of a pregnant woman, is she concerned about the citizenship of her unborn child? In the case of a young mother, has she faced problems registering her child? On the child's birth certificate, are both parents included, or just one of them?</p>	<p>Risk of statelessness if the child is unable to acquire the mother's citizenship at birth.</p>
<p>Was the child born abroad to same-sex parents? Is there discrimination in the country of origin which would give rise to the withdrawal or denial of citizenship?</p>	<p>If the country(ies) of the parents' citizenship prohibits same-sex marriage and partnerships, it may refuse to transcribe the birth certificate or issue an identity document. If that occurs, risk of statelessness.</p>

If the person is found to be at risk of statelessness based on the checklist above, they should be referred to the Mol where they can seek protection and initiate the procedure that best meets their needs. For further information, see Section 5.

Further questions are available on the Stateless Journeys website, [for adults](#) and [for children](#). It is also important to research about statelessness in the person's home country, which can help identify whether the person's circumstances indicate they may be stateless. Country of origin information that has specific information on statelessness may assist with this research, including the country position papers published by ENS on the [Stateless Journeys website](#) and research reports published by [Asylos](#).

Additional information about the law, policy, and practice on statelessness in Romania is available in the [Statelessness Index](#) and jurisprudence is available in the [Statelessness Case Law Database](#).

5. ROUTES TO PROTECTION

After identifying that a person is or may be stateless, it is important that they are referred to an appropriate procedure to have their statelessness (or citizenship) officially determined. Assessing whether a person is stateless can be simple or complex, depending on the circumstances. There are various legal procedures available depending on the situation and background of the person. The individual should be fully informed about all possible options from the outset so that they remain an agent of their situation as much as possible throughout. Actively referring someone to or accompanying someone through a procedure

requires that they are fully informed at each step and given a choice about how they would like to progress.

If a stateless person is also a refugee, they may have access to other routes to international protection, such as Refugee Status Determination (for more information on stateless refugees, see Section 7). In addition, some stateless people may be eligible for protection through other routes such as Temporary Protection (for those fleeing Ukraine),²² human rights claims (for example under the ECHR), and/or child-specific routes to protection or citizenship. Some may also be eligible for work permits, student visas, or family-based residence permits. Where there are no better options, it may be possible to apply for 'tolerated stay' or a residence permit on discretionary or compassionate grounds, depending on the circumstances.

States have specific obligations towards children under international law including to consider their best interests as a primary consideration and ensure they can acquire a citizenship. More information about this is included in Section 9.

States should not require stateless people to already have a residence permit to apply for protection, a residence permit, or tolerated stay. Imposing such a requirement prevents stateless people from accessing protection or causes inordinate delays in finding adequate solutions.

ENS's participatory action research with member organisations and their clients shows the value of legal advisers and others engaging actively with stateless people who are seeking protection or recognition as nationals.

"Through the encouragement of a participatory approach to casework and involving children and families in decisions about the strategies taken to resolve their citizenship problems, the project has sought to provide a platform for affected children and their families to tell their stories and give their views on what needs to change... [T]his approach works. Several cases in the research resulted in positive outcomes for the children and families concerned. In all cases, families and children reported feeling heard, supported, and informed about their cases, even where systemic or other external factors affected or delayed positive outcomes".

In Romania, there are several procedures in which statelessness can be identified and other routes to regularisation. Statelessness may arise as a legally relevant fact in procedures requiring the determination of citizenship, but none of them are tailored to determine statelessness nor lead to protection on the grounds of statelessness.

- In the asylum procedure, statelessness is considered based on statements provided when applying and may be further assessed during the substantive interview. An asylum-seeker may be identified as a stateless person and issued an identity document stating this. However, in assessing an asylum claim, the authorities mainly apply the concept of "country of origin" used in the domestic law definition of a refugee (Article 23 of the Law 122/2006, which refers to "country of origin" instead of "country of citizenship" as per the 1951 Refugee Convention). The

²² See [ENS's Ukraine page](#) and the [Statelessness Index](#) country surveys for further information.

²³ [Addressing the Risks of Statelessness among Children in Migration in Europe: Report on the findings of participatory action research by ENS members in five European countries](#) (2022), p. 19, available at: https://www.statelessness.eu/sites/default/files/2022-10/Addressing-statelessness-among-children-in-migration_Oct-2022.pdf

authorities do not usually refer to the “country of habitual residence” and do not take into consideration whether the person is unable or unwilling to return to that country (instead of not availing themselves of the protection of that country), which, according to the 1951 Refugee Convention is the standard that should be applied to stateless people. Moreover, authorities often require additional evidence to substantiate claims of statelessness. For instance, Palestinians may be asked to provide certificates from UNRWA, while individuals of Palestinian or Syrian origin holding travel documents from other countries may need to demonstrate their inability to return to a former country of residence. Similarly, Bidoon from Kuwait or Algeria may be required to prove recognition as stateless people in their former country of residence. These evidentiary requirements can pose significant obstacles for stateless individuals seeking asylum in Romania.

- Return procedures - a proposed country of removal needs to be identified before a person is detained for removal. If there is a change to the country of removal (e.g. due to lack of identification or doubts etc.), new countries may be considered, and justification must be provided before the court when requesting prolongation of detention. In the case of people with tolerated stay, removal procedures may be conducted outside detention. In this case, the proposed country of origin may be modified without leading automatically to detention.
- Stateless people may be granted a tolerated stay status and permit in the context of return proceedings. This may be considered in the case of refused asylum-seekers who declared themselves to be stateless at the beginning of the asylum procedure and if the country of origin or former residence does not recognise the person's citizenship (although no cases have been encountered recently).
- Statelessness can be considered during border procedures if a person declares themselves to be stateless. In practice, this is accepted until proven otherwise. The responsible body is the General Inspectorate of Border Police.
- Statelessness is also considered in the context of temporary protection. In Romania, temporary protection is available for: Ukrainian nationals who lived in Ukraine before 24 February 2022, regardless of when they left Ukraine, as well as their family members; non-Ukrainian third country nationals or stateless people who benefited from international protection or equivalent national protection in Ukraine before 24 February 2022, as well as their family members; non-Ukrainian third-country nationals or stateless people who prove that they had a permanent residence permit in Ukraine, and who cannot return in safe and durable conditions to their country or region of origin. However, the eligibility criteria may exclude many stateless individuals, particularly those who did not possess permanent residence status in Ukraine before the conflict. Romania has not extended temporary protection to stateless people with temporary residence or undocumented status in Ukraine, leaving many without access to temporary protection. For those ineligible for temporary protection, Romania offers the possibility of applying for international protection through standard asylum or subsidiary protection procedures. Stateless individuals fleeing Ukraine may also access short-term humanitarian assistance, including temporary accommodation, healthcare, and inclusion in public health programmes.

PROTECTION OF UNACCOMPANIED AND SEPARATED CHILDREN

Unaccompanied and separated children face major difficulties in proving their citizenship and are thus at an increased risk of statelessness. Family tracing can help in locating their parents,

but when the family cannot be found, the challenge is even greater. In some cases, children born abroad to a single mother are prevented from acquiring her citizenship due to gender discriminatory citizenship laws. When applying procedures to determine whether an applicant is stateless or not, often States do not adapt procedures or consider the specific vulnerabilities of this category of applicants.

The ECHR may be used to protect stateless people in Romania. The ECHR applies to all individuals under the jurisdiction of a Council of Europe member State, including stateless people. The ECtHR, however, has stated that an arbitrary denial of citizenship, as well as the loss of citizenship, might raise an issue under Article 8 of the Convention because of the impact that such a denial or loss may have on the private life of the individual.²⁴ Several rulings of the ECtHR on Romania involved stateless people:

- *Mogos v. Romania*, application 20420/02, decision 13 October 2005²⁵ (A family of five, having renounced their Romanian citizenship, was deported from Germany to Romania in 2002. Upon arrival, they were refused entry into the country. An altercation ensued, leading to police intervention for a medical emergency. The family alleged police assault, whereas the State claimed the police were attacked by the family. Investigations into both the family and the police officer ended without charges. The family criticised the poor conditions and lack of medical support at the Bucharest Airport transit centre. The Court found that the police action was justified due to the need for hospitalisation, and that the family's violent resistance justified the police's use of force – no violation of Art. 3)
- *Al Agha v. Romania*, application no. 40933/02, decision 12 January 2010²⁶ (A stateless Palestinian arrived in Romania and lived there until his residence was terminated, declaring him an 'undesirable person' without proper notification. He was detained and faced poor conditions. His refugee status was ultimately recognised on humanitarian grounds. He was eventually released and continued to live in Romania with refugee status – violations of Art. 3, 5 (1), (4), (5))
- *Abou Amer v. Romania*, application 14521/03, decision 24 May 2011²⁷ (A stateless person with refugee status in Romania was declared an 'undesirable person' while in Egypt for a family visit and banned from Romania for ten years due to activities allegedly endangering national security. Upon returning to Romania, he was detained. The Court found that the measures against him interfered with the family's life, as they were forced to leave Romania and resettle in Sweden to maintain their family unit – violation of Art. 8)
- *Dragan v. Romania*, application 65158/09, decision 2 February 2016²⁸ (detention conditions for a stateless person – violation of Art. 3)

Additional information is available in the [Statelessness Case Law Database](#), the [Statelessness Index](#), and the report [Addressing the Risks of Statelessness among Children in Migration in Europe](#).

²⁴ European Union Agency for Fundamental Rights, European Court of Human Rights - Handbook on European law relating to asylum, borders and immigration, Edition 2020, https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-handbook-law-asylum-migration-borders-2020-ed_en.pdf

²⁵ <http://hudoc.echr.coe.int/eng/?i=001-70614> (only in French)

²⁶ <http://hudoc.echr.coe.int/eng/?i=001-96655> (only in French)

²⁷ <https://hudoc.echr.coe.int/?i=001-104839>

²⁸ <https://hudoc.echr.coe.int/?i=001-160307>

6. DETERMINING STATELESSNESS

There is no dedicated SDP leading to a dedicated statelessness status in Romania, but there are other procedures in which statelessness can be identified. As mentioned in Section 5, statelessness may be identified during asylum procedures, temporary protection mechanism, returns, or border procedures.

Determination of statelessness should always be undertaken by the relevant competent decision-making authority. Some important considerations include:

WHO HAS THE BURDEN OF PROOF IN STATELESSNESS DETERMINATION?

UNHCR's Statelessness Handbook confirms that the burden of proving that a person is stateless should be shared between the individual and the host country government. The individual should take reasonable steps to demonstrate that they are stateless. Once they have provided any evidence which is reasonably available to them, including their own statement, government officials should take reasonable steps to confirm the individual's statelessness. In some circumstances, a greater share of the burden of proof should formally shift to the government, as should be the case with children, especially unaccompanied or separated children.

In the Romanian asylum procedure, the burden of proof is shared between authorities and the applicant. In return procedures, according to the law the burden lies mostly with the authorities, but in practice a person with irregular residence status should provide details on their identity to shorten their stay in detention. In all cases, the individual has an obligation to cooperate and take all reasonable measures to obtain documents.

Important notes:

- Contact with officials of any country of origin/former residence should only be undertaken if it is safe to do so – i.e., *not* if the individual fears persecution in that country.
- Authorities should inform people who are or may be stateless of any options to apply for recognition of statelessness and/or international protection or for a residence permit based on statelessness.
- The citizenship of a child should never be assumed. A determination of the child's citizenship should always be conducted, as the citizenship may not be the same as their parents or of the country in which they were born.
- Children and people who are traumatised, had limited access to formal education, and/or do not have a legal representative are often less likely to understand what evidence could be useful to demonstrate statelessness. The host country government should assist them appropriately.
- The individual should always have the right to an interview, particularly when the evidence submitted does not clearly establish that they are stateless.

WHAT IS THE STANDARD OF PROOF FOR DETERMINING STATELESSNESS?

The UNHCR Statelessness Handbook confirms that the standard of proof for determining statelessness should be the 'reasonable degree of likelihood' standard (which also applies in

refugee status determination). This is also sometimes referred to as a 'real risk' or a 'real possibility' standard. Applying a higher standard of proof would undermine the object and purpose of the 1954 Convention.²⁹

The 'reasonable likelihood' standard is lower than the 'balance of probabilities' standard that applies to many civil matters, and much lower than a criminal standard of proof ('beyond reasonable doubt'). A 'reasonable likelihood' may refer to something that is of relatively low risk of occurring. It is something that *reasonably could* occur, or where there is a 'real risk' that it could occur.

How to apply the 'reasonable likelihood' standard of proof in statelessness determination?

Kam was born at home, and her birth was not registered. She is part of an ethnic minority group which faces serious discrimination in her country of birth. She was not allowed to attend school or work. There was no way for Kam or anyone in her family to obtain identity documents as people of her ethnicity are not considered citizens. Numerous people, including police officers, are known to have committed abuses against people of Kam's ethnicity, with impunity. As a young adult, Kam travels to Europe and applies for asylum. She has no documents to prove who she is, nor where she was born and grew up. She is generally consistent in her statements about her life, though she sometimes gets confused about dates and the order in which things happened. She doesn't know some things she is asked about, like certain landmarks and the words to the national anthem of her home country. But her statements show knowledge of the community in which she grew up. Objective reports confirm serious discrimination and abuses of people of Kam's ethnicity and that they are not considered citizens in her country of origin.

It should be considered that it is reasonably likely that Kam is (1) stateless and (2) that she is at risk of persecution, and thus a refugee if the treatment she fears is considered to amount to persecution. Kam should not be required to enquire at the embassy of her country of birth for confirmation of whether she is considered a national because she is claiming asylum from that country.

Different standards may apply to certain aspects of assessing whether a person is eligible for protection as a stateless person. For example, if a host country official alleges that a stateless person is excluded from protection under one of the criminality-based 1954 Convention exclusion clauses, this may require the government to prove, to a higher standard, that the exclusion applies. The 1954 Convention refers to 'serious reasons for considering that' the person should be excluded.

The applicable standard of proof for proving that one has a particular citizenship may be the higher civil standard ('balance of probabilities'). Where the 'balance of probabilities' standard applies, this merely means that the individual needs to show that they *probably* have a particular citizenship.

In Romania, the standard of proof is established based on general procedural standards for asylum-seekers during the asylum procedure (lower standard of proof), and the benefit of the doubt is granted in some situations (Arts. 12 & 15 of Asylum Law). These legal standards were further interpreted in practice in the context of statelessness. For example, some Palestinians are required to provide a certificate from UNRWA, stateless people of Palestinian or Syrian

²⁹ UNHCR's Statelessness Handbook, Paragraph 91.

origin with travel documents issued by other countries must show that it is impossible for them to return, Bidoon from Kuwait or Algeria must show they are recognised as stateless people, or people who are presumed to have the citizenship of their country of origin must show that they are not recognised as nationals.

WHAT EVIDENCE MAY BE USEFUL TO PROVE STATELESSNESS?

The evidence that will be available and relevant for a person to demonstrate that they are 'reasonably likely' to be stateless varies considerably depending on the circumstances. In some cases, a person will have no evidence other than their testimony, and that should suffice in many cases. In other cases, a person may have many documents, some of which may help prove statelessness. It is important to assess the person's individual circumstances as well as the laws, practice, and circumstances of the countries with which the person has a relevant link.

Evidence that may be useful to demonstrate a person's identity, place of origin or former habitual residence, and statelessness includes – but is not limited to:

- the individual's own statements about why they are stateless
- statements of relevant people who know them (e.g. from a stateless community)
- identity documents (e.g. birth certificate, extract from civil register, national identity card, voter registration document)
- passports or other travel documents (valid or expired)
- evidence of refusal of entry into a country of potential citizenship
- parent's or applicant's marriage certificate
- citizenship certificate
- documents relating to renunciation of citizenship, or any other legal documents or court decisions
- identity and travel documents of family members
- confirmation of registration with UNRWA, GAPAR, or some other relevant agency³⁰
- applications or correspondence relating to efforts to acquire or obtain proof of a citizenship, including for example letters or emails to or from government officials, including embassies and consulates [where safe/appropriate to engage in such communication]
- statements or affidavits by people who accompanied the individual to an embassy or contacted an embassy or other institution to make enquires about citizenship or identity
- school certificates or evidence relating to inability to attend school
- military service records
- medical records (including hospital / midwife birth records)
- employment records or evidence proving impossibility to be employed
- social welfare records or other evidence of restricted access to social services
- records relating to failed efforts by the individual to travel to a country of possible citizenship or former habitual residence or failed efforts to remove the individual to another country, or any other relevant documentation issued by immigration authorities or border control

³⁰ Note that while UNRWA registration may indicate a person's Palestinian origin and confirm eligibility to receive UNRWA services within UNRWA's area of operations, registration with UNRWA does not prove nationality or residence status, nor is such registration proof, on its own, that a person necessarily falls within or is excluded from the scope of the 1951 Convention or the 1954 Convention. See ENS & BADIL report, note 2.

- a list of people who have been deprived of citizenship or other evidence of deprivation of citizenship relating to the applicant, a family member, or an associate

Evidence that may be useful to assess in relation to the relevant country(ies) includes, but is not limited to:

- news articles or reports that discuss statelessness relevant to the person's situation in the country of origin
- extracts of relevant citizenship laws, ideally combined with an expert report or other evidence to provide appropriate context and comment on their implementation in practice and any differences between regions
- expert reports about the citizenship laws, birth registration, and related practices of relevant countries and/or relating to their specific circumstances

This is not an exhaustive list. Often there will not be much evidence. Other types of evidence may be relevant in some situations. Some of these pieces of evidence will clearly carry more weight than others, and much may depend on whether an official believes a person's testimony. As with refugees, stateless people should be given the benefit of the doubt: i.e., the statements of a person applying for recognition as a stateless person should be accepted unless there are strong reasons and evidence to indicate that their testimony is not accurate with respect to material factors. Some stateless people will know what evidence is available to support their claims (if any) and be able to explain their situations chronologically and coherently, while others will not.³¹

ROBUST PROCEDURES TO DETERMINE STATELESSNESS AND RIGHTS OF STATELESS PEOPLE

The UNHCR Statelessness Handbook confirms that procedures to determine statelessness should be formalised in law to ensure fairness, transparency, and clarity of the procedure.³² Although many States, including Romania, do not officially have statelessness determination procedures in place, it is nevertheless important to ensure that certain procedural safeguards are guaranteed in any other procedure where statelessness can be determined, so that the dignity and safety of stateless people is ensured. Therefore, at least the following safeguards should be incorporated or ensured:

- Information on eligibility criteria and available procedures is accessible
- Right to have an interview with a decision-making official is respected
- Applicants have access to good quality interpretation and translation
- Applicants have access to legal assistance; free legal aid is guaranteed to people in need
- Decisions are based on individual merits with reference to accurate country information
- Decisions are issued in written form, with reasoning
- Right to appeal is guaranteed and accessible in practice
- UNHCR and any national monitoring bodies have adequate access to monitor the procedures

³¹ Further information about how to adequately evidence a statelessness application is available in this [Best Practice Guide](https://www.refworld.org/pdfid/58dcfad24.pdf) (relating to in the UK, but relevant in other countries; see Section C16 in particular), available at: <https://www.refworld.org/pdfid/58dcfad24.pdf>

³² UNHCR's Statelessness Handbook, paragraph 71.

GOOD PRACTICES IN RELATION TO STATELESSNESS DETERMINATION FROM OTHER COUNTRIES

Examples of good practices can be found in the ENS Statelessness Index,³³ UNHCR's Good Practices Paper on SDPs,³⁴ and the European Migration Network's Inform on Statelessness in the EU.³⁵ Core building blocks of a good practice SDP include:

Clear legal frameworks: Establishing clear legal frameworks that outline the process, criteria, and rights during the determination of statelessness is crucial. France, for example, has incorporated detailed provisions for statelessness determination in its Code on Entry and Residence of Foreigners and Right of Asylum, offering a structured approach for applicants.

Accessible and no-cost procedures: The procedure should be accessible to all potential applicants, free of charge, and provide necessary legal aid. Bulgaria's SDP, for example, is free of charge, and NGOs often provide legal aid, which facilitates greater access to the process.

Procedural fairness and rights of the applicant: Ensuring the rights of applicants during the process, including the right to be heard, to appeal decisions, and to legal representation, is fundamental. In Hungary, for example, free legal aid is available with no need to meet a financial eligibility requirement and legal representatives can be present and comment in interviews, and the law provides for an automatic, free right to appeal a negative decision to court, with free legal aid.

Provision of interpreters and translation services: Providing translation and interpretation services helps overcome language barriers, ensuring that applicants can fully participate in the determination process. Georgia's SDP mandates an interview with the applicant, during which they can be assisted by an interpreter.

Shared burden of proof: The burden of proof should be shared between the applicant and the State. This is practiced in France, where both the applicant and the Office for the Protection of Refugees and Stateless Persons contribute to collecting evidence.

Reasonable timeframe: Determination procedures should be completed within a reasonable timeframe to prevent prolonged uncertainty for applicants. Latvia, for example, aims to make decisions within three months, which can be extended up to one year for complex cases.

Protection during the procedure: During an SDP, applicants should be considered to be '*lawfully in*' the State for the purposes of the 1954 Convention.³⁶ They are therefore entitled to all rights based on jurisdiction, presence in the territory and lawful stay, including access to identity documents, the right to work, access healthcare, education, shelter and social security, freedom of movement, and protection from expulsion and detention. As this is similar to the protection granted to asylum-seekers under the 1951 Convention Relating to the Status of Refugees, it is recommended that applicants under an SDP are granted the same rights as asylum-seekers. For example, in Moldova, applicants for the SDP are considered to be lawfully

³³ See <https://index.statelessness.eu>

³⁴ UNHCR, *Good Practices Paper Action 6 - Establishing Statelessness Determination Procedures for the Protect of Stateless Persons*, July 2020, available at: https://emergency.unhcr.org/sites/default/files/2023-12/UNHCR%2C_Good_Practices_Paper_Action_6_-_Establishing_Statelessness_Determination_Procedures_for_the_Protect_of_Stateless_Persons%2C_July_2020.pdf

³⁵ EMN INFORM Statelessness in the EU, Version 4 - 11 November 2016, http://emn.immigration.gov.gr/images/articles/news/EMN_Inform_on_Statelessness/EMN_Inform_on_Statelessne ss.pdf

³⁶ UNHCR (2014), *Handbook on Protection of Stateless Persons Under the 1954 Convention Relating to the Status of Stateless Persons*, para. 135: https://www.unhcr.org/dach/wp-content/uploads/sites/27/2017/04/CH-UNHCR_Handbook-on-Protection-of-Stateless-Persons.pdf.

staying in the country, will not be detained, and cannot be expelled during the assessment. They are informed of their rights in writing in a language they understand (with access to interpreters if necessary) and are issued with a temporary identity document, the right to work, and to housing (although in practice social housing is rarely available). Applicants in employment have access to social security entitlements. If a person applies for statelessness status whilst detained in immigration detention, the authorities may carry out the assessment of statelessness while the individual is detained but will release them if statelessness is recognised or the time limit for detention expires.

Referral mechanisms between procedures: There should be a mechanism for cross-referral between the SDP and asylum procedures (giving primacy to the asylum claim), and procedures to recognise or grant nationality, should an entitlement to nationality become apparent during the procedure. In Moldova, for example, cross-referral mechanisms are in place and the SDP is suspended if an asylum application is made and resumed if that application is refused to protect stateless applicants from contact with the authorities of the country of origin if an asylum procedure is initiated. This is also the case in France, where the law establishes the primacy of asylum claims. If refugee status is granted to a stateless person in France, they are formally granted 'stateless-refugee' status so there is no need to initiate a separate SDP. However, if refused asylum, the SDP is not automatically initiated even if there are indications that the person could be stateless (although the authorities should inform the person about the possibility of applying to the SDP).

Such practices can contribute to a more effective, fair, and humane approach to determining statelessness, ensuring that stateless individuals receive the recognition and protection they deserve under international law.

For further information about international standards for statelessness determination and examples of good practices, please see ENS's reports [Statelessness determination and protection in Europe: good practice, challenges, and risks](#) and the [Good Practice Guide on Statelessness Determination and the Protection Status of Stateless Persons](#). Additional country information is available in the Statelessness Index Country Profile (where applicable).

7. STATELESS REFUGEES

Refugees can have a citizenship or be stateless. Statelessness may be the result or the cause of persecution or other harm. The 1951 Refugee Convention refers to some refugees "not having a nationality" in Article I(A)(2). A refugee's statelessness may be a reason for or very closely linked to their fear of persecution (for example a person who has been deprived of citizenship for political reasons or who is part of a stateless community that is systematically persecuted). For other refugees, statelessness may be largely incidental to their fear of persecution or other harm (for example a stateless person who has fled a war which is unrelated to their lack of citizenship). Or both factors can co-exist, where a stateless person fears persecution specifically linked to their statelessness and also serious harm due to an armed conflict.

The EASO [now EUAA] Practical Guide on Registration includes a section on identifying and registering initial indications of statelessness in an effort to harmonise practices across

Europe.³⁷ There is a strong link between statelessness and asylum across EU+ countries, especially since two of the top countries of origin of applicants in Europe – Iraq and Syria – historically have large stateless populations. They include Kurds and Palestinians in Syria, and Bidoon, Dom, and Faili Kurds in Iraq.³⁸ The latest EUAA Asylum Report includes Palestinians as a significant group. Due to the complex status of Palestine under international law and various national interpretations, Palestinians often face challenges in being recognised as stateless.³⁹ This affects their access to asylum procedures and rights in host countries.

If a stateless person applies for asylum and for determination of their statelessness, it is important to determine both claims. Each application should be assessed, and both types of status should be explicitly recognised so that even if refugee status or another form of protection ceases, the person remains entitled to protection as a stateless person. This also helps to prevent arbitrary or unlawful detention, which can occur if a stateless person, who has no country to which they can return, is refused international protection (or their protection status ceases), and their statelessness has not been identified and determined. Statelessness determination should be conducted either in parallel with or following the refugee status determination, with due regard to the primacy of the asylum claim and the principle of confidentiality for refugees in procedures to determine statelessness (see section 6). This means that if determining statelessness would require making enquiries to authorities which could compromise the safety of the applicant, the statelessness claim should be suspended until the refugee status determination is concluded, or the host State should determine that the applicant is stateless based on their own testimony and any other available evidence.

A stateless person who seeks asylum but who is not eligible for refugee status should be referred to any existing procedures in place that can determine statelessness. A stateless person who has been refused refugee status (or who was granted refugee status which has now ceased due to improved conditions in the country of origin) should not be expected to return to a country in which they do not have citizenship. Identifying statelessness early in the asylum process can also help prevent later unlawful detention of stateless people for the purpose of removal to a country of which they are not a national. In case of Romania, there is no automatic procedure for determination of statelessness following a final negative decision in the asylum procedure (as there is no SDP as such), however, applicants may further get toleration, granted in the return procedures to individuals who for objective reasons cannot repatriate, and statelessness was interpreted in practice as an objective reason.

Stateless people should be informed about the asylum procedure and any available procedures to determine statelessness, as well as any other possible routes to protection, a residence permit, or citizenship. They should also have access to specialised legal advice. Once informed about all possible options, stateless people should be able to choose which is the best procedure for them to follow.

Asylum registration and screening procedures and other procedures (and the people who work within them) should not assume that applicants have a citizenship. Screening forms should include questions that will help to identify statelessness.

³⁷ EUAA Practical Guide on Registration - Lodging of applications for international protection, December 2021, <https://euaa.europa.eu/publications/practical-guide-registration>.

³⁸ European Union Asylum Agency (EUAA) - Asylum Report 2021, <https://euaa.europa.eu/easo-asylum-report-2021/4131-understanding-statelessness-and-statelessness-related-trend>. It should be mentioned that EUAA has also developed a training module on Statelessness and inclusion in international protection for caseworkers, <https://euaa.europa.eu/training-catalogue/statelessness-and-inclusion-international-protection>

³⁹ EUAA Asylum Report 2023, July 2023, https://euaa.europa.eu/sites/default/files/publications/2023-07/2023_Asylum_Report_EN_0.pdf

Statelessness may be considered in the asylum procedure in Romania, based on statements provided when submitting an application, and may be further assessed during the substantive interview. The competent authority in Romania is the General Inspectorate for Immigration.

Access to the asylum procedure is ensured to any foreign national or stateless person who is on Romanian territory or at the border, from the time the person manifests their intention to request protection in Romania, in writing or orally.

There is no obligation to consider a claim of statelessness nor is any information available for stateless people about how to claim their rights under the 1954 Convention and/or be identified as stateless. Whilst there is cooperation between State agencies, this is not specifically for the purposes of identifying stateless people. In the asylum procedure, the burden of proof is shared between the authorities and the applicant. The applicant has an obligation to cooperate and take all reasonable measures to obtain documents. There is no guidance for decision-makers on the identification of statelessness, but in the case of asylum procedures, the confidentiality principle is strictly observed. Free legal aid and interpreting are available to stateless people on the same basis as other foreigners, although free interpreting is usually only granted during procedures before the competent authorities. General procedural safeguards are in place for applicants in the asylum procedure; these include communication of written decisions with reasons, rights of appeal, and specific time limits. The right to an interview is specifically provided during asylum procedures.

Additional information about statelessness and asylum registration, refugee status determination, and detention is available on the [Statelessness Journeys website](#), in the statelessness section of the EASO/EUAA [Practical Guide on Registration: Lodging of applications for international protection](#) and in the [2023 EUAA Annual Report on Asylum](#).

Example: for an overview of the asylum process and related procedures for a stateless person in the Netherlands, see [Statelessness in the Netherlands: A Step by Step Guide](#) [A practical guide for caseworkers in contact with stateless persons in the Netherlands] (ASKV Refugee Support, ISI, ENS, 2018) and [What a Judge Cannot See: Statelessness Determination in the Netherlands](#) (2023).

8. DETENTION AND ALTERNATIVES FOR STATELESS PEOPLE

Stateless people often face a heightened risk of arbitrary detention, particularly where procedural safeguards to identify and determine statelessness are lacking.

Article 9 of the International Covenant on Civil and Political Rights and Article 5 of the ECHR guarantee the right to liberty and prohibit unlawful and arbitrary detention. Any deprivation of liberty must be necessary, reasonable, and proportionate in the circumstances, and it must comply with domestic and international law. Detention must be used as a measure of last resort and is justified only when other less invasive measures are not sufficient to achieve legitimate aims. Detainees must always have the right and access to judicial review and adequate legal advice. There should be maximum limits on the duration of detention, restrictions on multiple instances of detention, and limits on the cumulative length of time spent in detention.

Stateless people often do not have a legal residence permit in any country and are detained for this reason in some countries. They are often also at heightened risk of prolonged arbitrary detention in relation to identification and removal procedures, because they frequently lack identity documents and removal is often impossible (because stateless people are, by definition, not considered nationals of the proposed country of removal and often are not accepted for removal).

UNHCR has called on States not to detain stateless people on the sole basis of them being stateless. UNHCR's Statelessness Handbook emphasises that, even when detention is justified, people awaiting statelessness determination must not be detained in the same spaces as convicted criminals or individuals awaiting trial. Procedures that can determine statelessness are an important mechanism to reduce the risk of prolonged and/or arbitrary detention. There must be mechanisms for detained people who are stateless or whose citizenship is unclear or unconfirmed to be referred to available procedures when appropriate.⁴⁰

Additional information is available in UNHCR's [Stateless Persons in Detention: A tool for their identification and enhanced protection \(2017\)](#) and on the [Stateless Journeys website](#). Additional country information is available in the Statelessness Index Country Profile (where applicable).

The EU Return Directive was transposed into Romanian law in 2011. The Law on Foreigners regulates detention and removal, while the Asylum Law regulates the detention of asylum-seekers (although not many cases have been registered so far). Statelessness is not considered juridically relevant in decisions to detain, and stateless people are at risk of detention in Romania. There is a definition of vulnerability in Romanian law, but statelessness is not considered to be a factor increasing vulnerability. People held in detention have the right to legal, medical, and social assistance, the right to communicate with diplomatic and legal representatives as well as family members and a right to appeal within five days. Upon release, people are issued with identity documents and a tolerated stay permit. In some cases, tolerated stay identity documents state that the person is 'stateless'. This is subject to conditions for toleration, and stateless people may be subject to re-detention as a sanction if conditions are violated, which is contrary to EU standards. Return agreements do not distinguish between stateless people and third-country nationals.

A proposed country of removal must be identified prior to detention for the purposes of removal. If there is a change to the country of removal, justification must be provided to the court when requesting an extension of detention. If removal under escort is no longer possible, the person must be released and tolerated stay is granted. In return procedures, according to the law, the burden lies mostly with the authorities but, in practice, a person with irregular residence status should provide details on their identity to shorten their stay in detention. In all cases, the individual has an obligation to cooperate and take all reasonable measures to obtain documents.

According to the EU Returns Handbook,⁴¹ attention should be paid to the specific situation of stateless people, who may be unable to benefit from consular assistance by third countries

⁴⁰ See UNHCR's Statelessness Handbook, paras 112-115.

⁴¹ Commission Recommendation (EU) 2017/2338 of 16 November 2017 establishing a common 'Return Handbook' to be used by Member States' competent authorities when carrying out return-related tasks, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32017H2338>

in view of obtaining a valid identity or travel document. In light of the judgement of the ECJ in Case C-357/09, Kadzoev, EU Member States should make sure that there is a reasonable prospect of removal that justifies imposing or prolonging detention.

A specific procedure is in place in case of non-cooperation of diplomatic missions accredited in Romania, in connection with issuing travel documents necessary for the removal of foreigners from the country. This should be applied only for citizens of the accrediting State, but it is not clear how this is implemented in practice for stateless people.⁴² Non-cooperation is defined in the law and includes when the diplomatic representation fails to respond or issue a travel document within a specified time limit.

The maximum length of detention is 18 months. Detention must be ordered in writing and reasoned in law and fact. Detainees have the right to legal, medical, and social assistance, as well as communication with diplomatic and legal representatives, and family members. Regular free legal assistance and information is provided in detention facilities by NGOs. However, no information is available for stateless people in detention on how to claim their rights under the 1954 Convention, nor are there any guidelines governing the process of re-documentation and ascertaining entitlement to citizenship.

Detainees have the right to lodge a complaint before the court within five days of detention being ordered, and the decision should be issued within three days. However, few appeals are submitted in practice. It is possible to request that the General Inspectorate for Immigration review the feasibility of removal, and to challenge their decision in court. Detention orders must be reviewed by the General Inspectorate every three months, or every month in the case of families with minors.

There is a definition of vulnerability in law, but statelessness is not defined or considered to be a factor increasing vulnerability. Vulnerability assessments are carried out, but UNHCR has expressed concern about vulnerability not being sufficiently identified or considered in detention decisions.

Statelessness is not juridically relevant in decisions to detain. Statelessness may be identified following repeated refusals by a proposed country of return to recognise an individual, which may sometimes lead to release from detention.

TOLERATION

Stateless people may be granted a tolerated stay permit in the context of return proceedings. This may be considered in the case of refused asylum-seekers who declared themselves to be stateless at the beginning of the asylum procedure and if the country of origin or former residence does not recognise the person's citizenship (although no cases have been encountered recently). Tolerated stay is considered in the law as an 'alternative to detention' but is only granted where there are no grounds for detention, so it is not applied as an alternative.

Prior to resorting to detention, authorities should explore alternative measures. Stateless individuals without lawful residence should only be detained after careful consideration of all available alternatives. Authorities making the decision to detain must ascertain whether it is

⁴² Ministerial Order no. 811-1321/2006 of the Ministry of Internal Affairs and Ministry of Foreign Affairs on the procedure applicable in the case of non-cooperation of diplomatic missions in connection with issuance of travel documents required for removal from Romanian territory, available at: <https://legislatie.just.ro/Public/DetaliiDocument/72434>

justified and proportionate to their objectives. If detention is deemed necessary, it must be implemented in a non-discriminatory manner and for the shortest duration possible.⁴³

People released from detention are issued with identity documents and a tolerated stay permit. In some cases, tolerated stay identity documents state that the person is 'stateless'. However, if the person breaches the conditions for tolerated stay, they may be subject to re-detention as a sanction. People granted tolerated stay have access to a personal ID number and the right to work in line with nationals. People released from detention can access basic support, including accommodation.

9. BIRTH REGISTRATION AND CHILDREN'S RIGHT TO A NATIONALITY

All children have a right to a nationality, under the CRC and other international human rights instruments. The 1961 Convention sets out international standards for avoiding childhood statelessness.

Birth registration can help prevent statelessness, although it is usually not, on its own, proof of citizenship, unless the child was born in a country that provides automatic citizenship to all children born on the territory (birth right, or *jus soli* citizenship). Lack of birth registration heightens the risk that a child may be left without a citizenship or experience difficulties proving citizenship.⁴⁴

Where citizenship is recorded at birth registration, birth registrars and others involved in registering the birth of a child should ensure that a citizenship is not incorrectly recorded and that it is not assumed that the child has a citizenship.

There are specific procedures to register the births of children whose parents are asylum seekers or beneficiaries of international protection in Romania.

Births must be registered within 15 days, after which approval of the mayor is required. After one year, registration is only possible through a court procedure, which involves verification of the child's identity, age, and sex. Legal aid is not available for people who are unregistered, and a medico-legal assessment is required, which incurs a fee for adults. The age-assessment process is reportedly unpleasant and uncomfortable, which may deter people from accessing the procedure. The procedure is even more difficult (if not impossible) for people who were not born in medical facilities and do not have a medical certificate of birth.

The Law on Civil Status sets out a procedure to be undertaken to issue the birth certificate and register the birth of a child born to Romanian parents outside Romania. Children whose births were registered abroad must have their civil status documents transcribed into the Romanian registries through a request to the consular authorities of the country where the child was born or through transcription of foreign civil status certificates in Romania. In past years, there have been cases reported of children in some countries facing difficulties to register their births and be recognised as nationals, and children of same-sex parents will not be registered.

⁴³ UNHCR, Nationality and Statelessness, http://archive.ipu.org/PDF/publications/nationality_ro.pdf, p 21

⁴⁴ For more information, see [Birth registration and the prevention of statelessness in Europe: identifying good practices and remaining barriers](https://index.statelessness.eu/sites/default/files/ENS-Birth_registrations-StatelessnessINDEX_briefing-revised.pdf) (ENS, 2020), available at: https://index.statelessness.eu/sites/default/files/ENS-Birth_registrations-StatelessnessINDEX_briefing-revised.pdf

Romani people may face practical difficulties in registering the birth of their children (related to legalisation of documents and other procedural requirements). Many Romani children and young adults remain unregistered at birth and must undergo the complex court procedure to register later in life. The risk is heightened for children born to parents who themselves are undocumented, which perpetuates lack of legal identity and risk of statelessness.

NATIONALITY DETERMINATION PROCEDURES

A nationality determination procedure is a way for a person who is a national of a particular country to obtain confirmation of the fact of their citizenship. It is often important for a person who was born in a country of which their parents are not nationals, to children whose parents have different or multiple nationalities, or to stateless parents. Citizenship determination procedures can confirm which children who would otherwise be stateless are in fact nationals. Citizenship determination is a simple process for most children if their parents are nationals of the country of birth. For children of migrants, the procedure should entail consideration of the laws and practice of the authorities of the parents' country(ies) of citizenship, as well as of the child's country of birth. Where a child holds multiple nationalities from birth, this should be recorded, and the parents informed. Nationality determination should always be carried out by the competent decision-making authority, and the information recorded across different public authorities should be consistent.

In some cases, a nationality determination procedure will identify that a child is stateless. If there are no automatic safeguards in law for the child to acquire the citizenship of the country in which they were born, the parents should be informed of ways that their child might be able to obtain a residence permit and acquire citizenship as soon as possible.⁴⁵

There is no safeguard in Romanian citizenship law for children born on the territory who would otherwise be stateless nor any specific provisions to protect the right to a nationality of children born to refugees. The only option for a stateless child born on the territory is to apply for naturalisation alongside their parent/s if they can meet the general conditions set out in the law. Children born to parents with a foreign citizenship will automatically be registered as having the same citizenship as their parents without any determination as to whether they can actually acquire this citizenship. In practice, if the parents of a child holding asylum seeker or beneficiary of international protection status in Romania do not hold a passport or identity document issued by the State of which they are citizens - and in the case of stateless people, a 1954 Convention travel document - the document and the child's birth certificate will include a notation that "The identity of the parents/father/mother is declared". There is no field for 'Citizenship' on the birth certificate, but there is a separate section for '*Mentiuni*' ('Mentions', or annotations) where authorities will add information about the country of citizenship or statelessness of the child. In practice, this is completed based on the parents' statements and identity documents, but no verification is conducted as regards the actual possibility of the child acquiring the citizenship of one of the parents.

⁴⁵ Additional information available in [ENS's report relating to birth registration for stateless children](#) (note 16) and on the [Stateless Journeys site](#), and birth registration is covered in the [Statelessness Index](#) (see Questions PRS.6.a – 6.h on the country surveys).

Children's right to a nationality: jurisprudence

In 2021, the UN Committee on the Rights of the Child issued a decision in [A.M. \(On behalf of M.K.A.H.\) v. Switzerland \(no 95/2019\)](#), concerning a stateless child threatened with removal from Switzerland to Bulgaria. The Committee found (among other findings) that Switzerland had not considered the best interests of the child nor taken necessary measures to verify whether the child would be able to acquire citizenship in Bulgaria. The Human Rights Committee also found a violation of the child's right to a nationality in [Zhao v. the Netherlands](#) (2020). The authorities had registered a child born in the Netherlands as having 'unknown' citizenship and refused to change it to 'stateless' on the ground that the child had not proved that he had no citizenship. Without being recognised as stateless, the child could not acquire Dutch citizenship in line with existing safeguards to prevent statelessness of children born on the territory.

Also in 2021, [a Spanish court](#) recognised as a Spanish national a child who would otherwise have been stateless. The child was born in Morocco while her mother was travelling from Cameroon to Spain, outside a health facility, and her birth could not be registered in Morocco. The mother tried to register the child as a national of Cameroon, but this was not possible. The Court held that the safeguard established in Spanish law to prevent statelessness of children born in Spain should be applied broadly, in compliance with international treaties and with the principle of the best interests of the child. Therefore, it found that there was a violation of the child's fundamental rights and declared that the child held Spanish citizenship and ordered the registration of the child's birth. More information is available [here](#).

It should be emphasised that the birth certificate is extremely important in relation to recognition of citizenship in Romania: it represents the proof of citizenship for children younger than 14 (normally, accompanied by the ID/passport of the parents, as per the provisions of Art. 22 para (2) of the Citizenship Law). This document also contains a CNP (personal numerical code, a personal identification number) which is only granted to Romanian citizens (upon request it may also be granted to children of beneficiaries of international protection and asylum seekers) and is crucial for accessing services such as healthcare or the education system. After the age of 14, children are also provided with identity cards to prove their identity, including their citizenship. The birth certificate is the civil status document (*'act de stare civila'*) that constitutes a proof of birth 'in the interest of the State and the individual, and serves as information about the number and structure of the population, demographic situation, and the defence of the fundamental rights and freedoms of citizens'. In this context, the lack of birth registration renders children significantly more vulnerable to statelessness because it leaves them without proof of birthplace, parentage, and other key facts needed to establish their citizenship.⁴⁶

More information is available on the [Stateless Journeys website](#) and in the [Statelessness Case Law Database](#). Additional country information is available in the Statelessness Index Country Profile on [Romania](#).

⁴⁶ ENS, Ending Childhood Statelessness, A Study on Romania, Working Paper 01/15, <https://www.statelessness.eu/sites/www.statelessness.eu/files/Romania.pdf>

10. NATURALISATION AND INTEGRATION

Naturalisation is a crucial step for many stateless people to finally obtain a nationality. Article 32 of the 1954 Convention establishes that:

*States shall as far as possible facilitate the assimilation and naturalization of stateless persons. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.*⁴⁷

Where stateless people are eligible for facilitated naturalisation or integration assistance, it is important that their statelessness has been recorded in official documents or systems in other procedures, such as asylum or immigration applications and decisions, so that when they apply to naturalise or for integration assistance, it is already recorded that they are stateless, and this will not pose a barrier for them.⁴⁸

Naturalisation and the acquisition of citizenship in Romania are governed by national legislation, primarily outlined in Article 8(1) of the Citizenship Law. Conditions under which Romanian citizenship may be granted upon request to stateless individuals or foreign citizens are:⁴⁹

- residence requirement (eight years or five years if the individual is married or cohabits with a Romanian citizen),
- proof of loyalty to the Romanian State,
- must be at least 18 years old (an application made by a child's parents must also include an application in the name of the child and there is no possibility for children (under 18) to apply in their own name or to have their application submitted in their name by a legal representative),
- has secured legal means of decent subsistence,
- 'known to have good conduct' and not have been sentenced in Romania or abroad for any criminal offence that 'would make them unworthy to be Romanian citizens',
- proves language and cultural knowledge,
- learns the Constitution and National Anthem.⁵⁰

Additionally, recent amendments to the Citizenship Law extend the right to apply for citizenship to stateless individuals or foreigners who have significantly contributed to the protection and promotion of Romanian culture, civilisation, and spirituality, or who have made notable contributions to promoting the image of Romania through outstanding sports performance.⁵¹ Also, a child born to foreign or stateless parents and who has not reached the age of 18 acquires Romanian citizenship together with their parents.

There are certain categories of applicants who may be eligible for expedited naturalisation, including recognised refugees who are required to have resided in Romania continuously for

⁴⁷ There is a parallel provision for refugees in the 1951 Refugee Convention (Article 34)

⁴⁸ Further information about naturalisation, especially for stateless refugees, is available on the [Stateless Journeys site](#).

⁴⁹ Art. 8 (1) Act No. 21/1991 <https://legislatie.just.ro/Public/DetaliiDocumentAfis/121439>

⁵⁰ Art. 8 (1) Act No. 21/1991 <https://legislatie.just.ro/Public/DetaliiDocumentAfis/121439>

⁵¹ Article 8¹ Act on Romanian Citizenship

at least four years before applying, and based on a recent proposal of the Ministry of Justice, a similar deadline may be applied for people with subsidiary protection status, but not yet for stateless people.

Romanian citizenship can also be reacquired by people who have lost it or stateless people who are former Romanian citizens, as well as their descendants (up to the second degree), with the preservation of foreign citizenship and establishing the domicile in the country or maintaining it abroad, if they meet the conditions established in law. The reacquisition of citizenship by a spouse has no consequence on the citizenship of the other spouse. The foreign citizen or stateless spouse of a person who reacquires Romanian citizenship may also request Romanian citizenship under specified conditions.

Regarding the deprivation of citizenship, naturalised Romanians may be deprived of their citizenship on various grounds, including national security concerns, without adequate safeguards to prevent statelessness.⁵²

The Integration Ordinance (no. 44/2004) provides for two separate types of integration programmes for beneficiaries of international protection (refugees and holders of subsidiary protection) and third country nationals (in this case without any financial implications). Stateless people may access education or employment based on their residence or international protection status, but not solely as stateless people.

11. HELP FOR STATELESS PEOPLE IN ROMANIA

EUROPEAN NETWORK ON STATELESSNESS (ENS)

ENS is a civil society alliance of over 180 organisations and individual experts in 40 European countries. ENS is committed to breaking the cycle of statelessness and ensuring that the rights of everyone living in Europe without a nationality are fully respected. ENS coordinates awareness-raising and advocacy projects and campaigns aiming to protect the rights of stateless people, promote realisation of the right to a nationality, end childhood statelessness, and raise awareness about the rights of minorities in terms of statelessness, migratory statelessness, and the arbitrary detention of stateless people. You can [contact the network](#) if you are looking for more detailed information about statelessness. You can also [subscribe to ENS's newsletter](#) and find out about [joining the network](#).

UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES REPRESENTATION IN ROMANIA (UNHCR)

UNHCR is a global organisation, present in Romania, working to save lives, protect rights and build a better future for refugees, internally displaced communities and stateless people. It has a special role in tackling statelessness related issues, including support provided to relevant stakeholders in fulfilling their tasks and obligations in this specific area; more details: <https://www.unhcr.org/ro/>

⁵² ENS Index <https://index.statelessness.eu/country/romania>

NATIONAL ROMANIAN COUNCIL FOR REFUGEES [CONSILIUL NAȚIONAL ROMÂN PENTRU REFUGIAȚI]

The Romanian National Council for Refugees was founded in 1998, having been granted public utility status in 2003. CNRR's mission is to promote and defend through all legal means human rights in general, and migrants', refugees', and asylum seekers' rights particularly. It provides legal counselling for asylum seekers, during the refugee status determination procedure, and beneficiaries of international protection, as well as social counselling regarding their rights in Romania and how to access them, under the current law. More info available at: <https://cnrr.ro/index.php/en/>

JESUIT REFUGEE SERVICE ROMANIA [SERVICIUL IEZUITILOR PENTRU REFUGIATII DIN ROMANIA]

JRS Romania is an NGO based in Romania, forming a part of the international Catholic organisation JRS, which currently operates programmes in over 50 countries. As a legally registered entity under private law, JRS Romania is a non-profit humanitarian, autonomous, independent, democratic, apolitical, and non-governmental association. JRS Romania has been a member of ENS since 2012 and has been involved in individual legal and social assistance (including housing), media campaigns and advocacy in the area of statelessness. More details: <https://jrsromania.org/>.

12. RESOURCES

- Statelessness Index Survey 2022: Romania
<https://index.statelessness.eu/country/romania>
- ENS, Ending Childhood Statelessness: A Study on Romania, Working Paper, January 2015, <https://index.statelessness.eu/sites/default/files/ENS%20-%20Ending%20Childhood%20Statelessness%2C%20A%20Study%20on%20Romania%2C%20Working%20Paper%2001.15%20%282015%29.pdf>
- JRS Romania, ENS & ISI, Joint Submission to the Human Rights Council at UPR43 - Romania, November 2022,
<https://index.statelessness.eu/sites/default/files/JRS%20ENS%20ISI%20-%20Submission%20to%20UPR43%20on%20Romania%20-%20Final.pdf>
- JRS Romania, ENS & ISI - Joint Submission to the Committee on the Rights of the Child, March 2023,
https://index.statelessness.eu/sites/default/files/JRS_ENS_ISI%20-%20Submission%20to%20the%20CRC%20on%20Romania.pdf
- UNHCR, Colloquium on Nationality and Statelessness Issues in the Light of International Law, February 1998,
<https://www.refworld.org/reference/confdoc/unhcr/1998/en/37431>
- UNHCR, Seminar on "Nationality: The Right to Have Rights. Ratification by Romania of the International Conventions on Statelessness", July 2002,
<https://www.refworld.org/reference/confdoc/unhcr/2002/en/15025>
- UNHCR, Joint UN/Romanian Government Seminar on the Improvement of the Situation of the Roma in Romania, November 2001,
<https://www.refworld.org/reference/confdoc/unhcr/2001/en/19022>
- UNHCR, Statelessness international conference, Bucharest, 2010 (printed paper including presentations made during the event)

◀ STATELESS JOURNEYS ▶

Statelessness is often overlooked in asylum and migration debates. It is a hidden but very real issue affecting many refugees and migrants in Europe.

The #StatelessJourneys campaign – led by the European Network on Statelessness – calls for full access to rights and support for stateless refugees, and for this to be better prioritised as part of international protection responses.

<https://statelessjourneys.org>



European
Network on
Statelessness



European Network on Statelessness (ENS) is a civil society alliance of over 180 members in 40 countries working to promote the right to a nationality in Europe. ENS is committed to ending statelessness and ensuring that everyone living in Europe without a nationality can access the rights they are entitled to under international law.
<https://www.statelessness.eu/>

As a legally registered entity under private law, JRS Romania is a non-profit humanitarian, autonomous, independent, democratic, apolitical, and non-governmental association. JRS Romania has been involved in individual legal and social assistance (including housing), media campaigns and advocacy in the area of statelessness.
<https://jrsromania.org/>.

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