

# Literature review and mapping study: risks of statelessness among the children of refugees in Europe, July 2020

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## 1. Aims of this paper

- To review what literature or other evidence exists setting out current understanding of risks of statelessness among refugee children in Europe.
- To map who holds knowledge, information and power to effect change on this issue.
- To make findings relevant to the production of a framework and methodology for research to be carried out by the European Network on Statelessness (ENS) with its members to fill evidence gaps, communicate more clearly on the issue, and develop concrete and measurable policy and legal solutions.

The paper is organised around the different sources of evidence that exist, addressing the aims in the context of each, and then making holistic findings at the end.

## 2. Overview of existing evidence, research, and theories

Key source documents are ENS's:

- *No Child Should be Stateless: Ensuring the right to a nationality for children in migration in Europe* (April 2020)
- *Birth registration and the prevention of statelessness in Europe: identifying good practices and remaining barriers*, Thematic Briefing (May 2020)

These documents draw on earlier work by ENS and its members and reference existing literature and evidence on risks of statelessness among refugee children in Europe. They identify causes of statelessness and limitations in State responses that increase the risk that children at risk of statelessness become stateless, and that stateless children remain unidentified, or are identified but remain stateless.

It is not the purpose of this paper to revisit the summaries of existing research and theories, and the conclusions that they reach, particularly as they are so recent. Rather, they, and the goals identified in them, are the starting point and this document should be read with them. Their recommendations appear as Annex 1. While birth registration is the focus of the most recent publication, ENS also considers the other issues highlighted in *No Child Should be Stateless* to be important, although this review confirms ENS's conclusion that civil registration is central to addressing the question of statelessness where children are concerned.

## 3. Existing evidence

The written sources of information about stateless children of refugees in Europe<sup>1</sup> identified through this review are:

- Accounts of, and documentation held by, individual refugees, people seeking asylum, people refused asylum, and other migrants
- Quantitative information
- Law reports

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<sup>1</sup> The geographic scope of ENS's work encompasses the 47 member States of the Council of Europe.

- Records of unreported legal cases
- State level information and investigations
- Reports of IGOs and NGOs, including refugee community organisations and independent official bodies set up by States such as Ombudspersons
- Academic studies
- Press reports and social media

These cover both the situation of children in Council of Europe countries and information about children in countries from which refugees come to Europe.

ENS and its members have been involved in much of the work undertaken on the situation in Council of Europe countries, whether as producer or contributor. The Institute on Statelessness and Inclusion, an ENS member, is also a major contributor and is plugged into work being done in other regions of the world.

Information within those written reports, and conversations with lawyers, academics, and representatives of NGOs, all indicate that there is a much greater volume of knowledge nowhere recorded or written down. Knowledge arises where a person identifies that a child is potentially stateless. This may be because the person is a lawyer or country expert already aware of the risk of statelessness in the country of origin in question. Or it arises because the person has attempted to assist the child with a civil procedure that requires proof of nationality and has uncovered that such proof does not exist.

When the information comes to light it is often not pursued. For example, in one case examined, an expert lawyer understood that he might have a case to attempt to register a child as stateless; but the child's mother (an asylum-seeker) was unable to meet the evidential burden of proof. The child was theoretically eligible for registration as a stateless person but would shortly become eligible for nationality of the host country based on birth on, and length of residence in, the territory. It was a question of whether to do things the hard way, or the easy way. The statelessness claim would involve costly investigation, but the claim based on length of residence a higher fee. The child's statelessness could be removed without having to be proven.

It is difficult to collect and access unrecorded evidence. One way to decide where best to direct efforts is to consider the cases in which this would be a step to resolving the child's statelessness, whether by facilitating an application for nationality or making the case for a route to such an application where none exists.

### **3.1 Accounts of, and documentation held by, individual refugees, people seeking asylum, people refused asylum, and other migrants**

The accounts of parents of stateless children, and the documents they hold, are important in understanding how statelessness is produced and key to understanding how it is negotiated. They are largely absent from much of the literature.

Refugees and migrants (including people who have been refused international protection) are often the object of studies, caught in a 'case study' box. Where their voices are reflected in UN, NGO, and academic literature, what is found for the most part are 'stories',

as in UNHCR's IBelong campaign publications and ENS's own *Still Stateless, Still Suffering* report.

The 2011 UNHCR and Asylum Aid study, *Mapping Statelessness in the UK*, has more input from stateless people than many, and a real effort was made to gather information from stateless people as part of the research. But while they were asked how statelessness affected them, their views on potential solutions and the wider questions of addressing statelessness were not explored, the questions being of the 'story' variety:

*What is your biggest worry? Please complete the following sentence about yourself: "I see myself as..." How does statelessness affect the way you see yourself? Do you consider yourself to have special needs that other people do not have? Please explain. Do you know other stateless persons who are in a similar position to you? How do you view the future? What do you think will be the outcome of your current situation?*

They are described in the study as participants, but the extent to which they can really said to have 'participated' in the work is open to question.

ENS is trying to address this with its 'Hear it from us' work. Khadija Badri records in her October 2019 blog for ENS:

*[...] many problems facing communities were similar in all three countries [Netherlands, Spain, and UK]. Participants told us that stateless people face barriers accessing basic rights (such as education, [...] and healthcare), as well as certain legal procedures and routes to obtaining citizenship through naturalisation. Alongside a perceived lack of understanding and awareness from authorities about statelessness, community representatives also highlighted the absence of information and advice on statelessness [...] Participants expressed fears and worries about statelessness being passed on to their children and how it intersects with other problems such as racism and sexism which can lead to further marginalisation.*

Similarly, the University of Liverpool, the Institute of Statelessness and Inclusion, and Tilburg University with legal anthropologist Judith Beyer, propose a more participatory approach in their work, with the views of parents of stateless children solicited on systemic issues.

There are models on which to build. The OSCE, including in partnership with UNHCR, used participatory research when working to address the statelessness of Roma in Europe. Here there was a more easily identifiable population. Some stateless populations have long experience of negotiating statelessness and confronting it on a national and international level, for example Kuwaiti Bidoon, Palestinians, and Rohingya. Families may have valuable comparative perspectives from relatives, or their own stays, in different countries.

Language is key to unlocking this information. Many Rohingya, Kuwaiti Bidoon, and Palestinians are active on Facebook, Twitter, and write and speak out, but rarely are funds made available to translate this rich material and it does not find its way into the literature. Their voices appear mostly mediated through workshop notes taken by observers. It would be in line with ENS's community engagement work that this project sought to change that. That will require investment in translation and interpretation, both to record what refugees

are saying and to allow them to understand what researchers are saying and writing to be involved in commenting on it both pre and post publication.

### **3.1.1 Those holding knowledge, information and power to effect change on this issue**

Knowledge and information are held by:

- Refugees
- Those able to read and translate the writing and social media engagement of stateless people
- People and organisations familiar with participatory working methods
- Experts on ethical research with migrant and refugee communities (the chapter in the fourth Fatal Journeys report by Dr Samuel Okyere of the University of Bristol is an example of this)

Refugees and other migrants hold knowledge that is likely to be valuable in this work once sensitised to the potential statelessness of their children (or for young refugees themselves). Many refugees describe themselves as stateless because they can no longer look to their country for protection, although they have a nationality. They may have an emotional, sometimes a practical, stake in being identified as stateless and for this reason awareness-raising projects must proceed sensitively, with ethical considerations at their heart.

Refugees may hold information, as may members of their communities. They are less likely to hold power, but some have a platform and enjoy considerable influence.

Those able to speak the languages of refugee groups and participate when members of the group are speaking to each other have access to far richer sources of information and wield considerable power. But, increasingly, it is possible to achieve previously unparalleled communication through interpretation apps and translation apps. While many are still crude, they are often sufficient to identify material that it would be particularly valuable to devote further resources and effort to translating.

Authorities and administrative decision-makers/judiciary, as well as refugees' legal representatives and those advocating for them in official contexts, are likely to hold knowledge and information. UNHCR, due to its privileged role in refugee status determination, is likely to hold knowledge and information too. All may retain copies of documents held by stateless refugees, all are likely to have heard their accounts.

### **3.2 Quantitative information**

Quantitative information has many limitations for the reasons explored in *Counting the population in need of international protection globally* by Blitz, D'Angelo and Kofman, and in project proposals for new UN studies which aim to address those limitations.

A clear example of these limitations is the 20 February 2020 Executive Committee of the High Commissioner's Programme Update on Budgets and Funding, which stated that there were 3,622,284 refugees in Turkey in mid-2019 and only one stateless person. This review was more concerned with the parameters set in advance for the gathering of quantitative

information, than the statistics themselves. People working on statistics, concerned with how accurately to record nationality and the terms to use, can cause stateless people to disappear or bring them into view.

The UN Statistics Division is currently reviewing the 1998 International Recommendations on Migration Statistics. In two of the working groups (those on concepts and on definitions) the question of statelessness and the need for better data on several variables has been discussed.

There is little statistical information at Council of Europe level and that which exists at EU level is not fine-grained. Collection of data is always shaped by political considerations: States that recognise Palestine insist on Palestinians being recorded as a category separate from statelessness in the EU statistics, which risks masking the statelessness of Palestinians when non-experts interrogate the statistics (although it provides a helpful breakdown to experts).

Longitudinal, cohort data is scant, and it is not possible to use statistical sources to identify where stateless children have acquired a nationality, save in the case of large-scale recognitions or registrations.

The 2020 UN update on budgets and funding does record where significant numbers of stateless persons have been identified and it is possible to correlate this against what is known about refugee populations and nationality laws in those countries. This is easiest for EU Member States where the statistics on first-time asylum applicants by nationality for 2019 and the first quarter of 2020 are available. The data is imperfect, but it provides information that can usefully be explored by those considering research in a particular country.

Even at a headline level, when combined with qualitative information, statistics may help identify potential issues for further research. For example, it is known that in Colombia and Venezuela, the births of children born outside the territory must be registered with the competent national authority for the parent to transmit nationality to the child. In mid-2019, the UN Update on budgets and funding records 23,462 refugees in Spain and 3,567 stateless persons. This reveals Spain as a country with a sizeable refugee population and with the capacity to identify and record statelessness. The EU statistics on claims for asylum for mid-2020 reveal:

<b>Spain</b>	
Venezuela	40 305
Colombia	28 880
Honduras	6 730
Nicaragua	5 840
El Salvador	4 715

Other	28 705
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Spain is a country where those born on the territory who would otherwise be stateless acquire Spanish nationality at birth. The statistics suggest that it should be possible to identify whether those recognised as stateless in Spain include refugee children, and if so to investigate why. Information from Proyecto Ödos suggests that there is a particular problem with births on route to Spain in cases of migrant children whose parents are able to approach their embassy, but whose embassies will not register the birth. This points to an issue highlighted by much of the other evidence: the need to distinguish refugee families, who have good reason not to approach their national embassy, from others who can do so. This in turn raises the particular problem of people with pending claims for international protection, which may take a long time to determine, during which period the question of whether, ultimately, they will be able to approach their embassy is unresolved.

In the case of Belgium, in mid-2019, the UN update on budgets and funding records 61,677 refugees and 10,933 stateless persons in Belgium. Statistics on newly arrived asylum-seekers in Belgium in 2019, report:

Belgium	
Syria	2 730
Palestine	2 320
Afghanistan	2 245
El Salvador	1 365
Eritrea	1 155
Other	13 290

Given the nationalities represented, it is clear that stateless people in Belgium include asylum-seekers (e.g. Palestinians) and it is reasonable to infer, given the nationalities, that other asylum applicants are likely to be affected by statelessness. Younger children are likely to be dependants rather than applicants in their own right. Belgium grants nationality automatically at birth to children who would otherwise be stateless born on its territory. Information from the Statelessness Index suggests that safeguards exist.<sup>2</sup> Therefore, an important line of enquiry, when a potentially stateless child living in Belgium is identified, is where that child was born.

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<sup>2</sup> Article 10(2) Belgian Nationality Law; judgment of the Constitutional Court in l'ASBL (Défense des Enfants - International - Belgique - Branche francophone (D.E.I. Belgique)) case 73/2008, of 17 December 2008; Circulaire relative aux modifications du Code de la nationalité belge introduites par la loi du 27 décembre 2006 portant des dispositions diverses of 25 May 2007.

For Denmark, the figures are 36,971 refugees and 8,507 stateless people. The recorded nationalities of asylum claimants in 2019 are:

Denmark	
Syria	490
Eritrea	480
Stateless	200
Somalia	160
Morocco	155
Other	1 115

Denmark is not included in the Statelessness Index, but the GlobalCit database states that Denmark does not grant nationality automatically at birth to otherwise stateless children born on its territory. This is compatible with at least some of the identified stateless people being children born on the territory, possibly children of Syrian or Eritrean refugees. Denmark is an example of a country where parliamentary questions have been used to supplement statistics, resulting in information provided on 8 June 2020 that 117 children were born in Denmark between 1 January 2015 and 20 May 2020 to single mothers with the nationality of one of the 25 countries that prevent women from passing their nationality to their children on an equal basis with men, and to unknown fathers. All 117 children were registered in Denmark as nationals of their mothers' countries of nationality. They are not therefore part of the cohort of 200 recorded in the statistics. There is concern that these children are stateless, but the Ministry for Immigration and Integration has promised to get in touch with the Immigration Service with a view to securing the correct registration of the children's nationality or statelessness. The question also served to draw attention to statelessness and to raise awareness.

Statistical information comparing numbers of refugees and stateless persons can also highlight advocacy challenges. In countries where the stateless population greatly exceeds the refugee population, the stateless may be *in situ* groups, for example Roma and Sinti in the successor States to Yugoslavia, or ethnic Russians in successor States to the USSR. Thus, for example, in Croatia, the UN update on budgets and funding identifies 853 persons in refugee-like situations but 2,886 stateless persons. In Estonia, the figures are 324 in refugee-like situations, and 76,639 stateless. Latvia, North Macedonia, and Moldova are other examples of States where the stateless population exceeds the refugee/refugee-like population.

In such States it is necessary to consider how debates about non-refugee populations have shaped (or concealed) the debate on statelessness, whether there is a case for treating the refugee population as a special case and what implications this might have for other

stateless populations in the country. In cases of intra-European flight, solutions to the problem at source have the potential to assist refugee children in other member States.

The 2019 report by Gábor Gyulai of the Hungarian Helsinki Committee, *Nationality unknown: An overview of the safeguards and gaps related to the preventing of statelessness at birth in Hungary*, highlights that counting can lead to a dead end. While the Hungarian State has been persuaded accurately to record where there is lack of certainty that the child has acquired a nationality, it has not moved from this to determining whether or not the child is stateless, let alone to affording the child a nationality. This problem is replicated in States with statelessness determination procedures: the recognition of a child as stateless, the 1954 Convention ambition, is a modest ambition in contrast to that of the 1961 Convention and the UN Convention on the Rights of the Child, which are concerned with the acquisition of a nationality. This review suggests that the relevance of statelessness determination procedures in eradicating childhood statelessness lies in that recognition as a stateless person frequently results in a residence status. In Hungary, Latvia, Lithuania, Austria, Denmark, Germany, Netherlands, Malta, Sweden, and the UK, residence status is relevant to whether the child can acquire nationality on the basis of statelessness. Even where residence status is not required, it makes it more likely that the requisite years of residence will be achieved.

The literature highlights Palestinians and Kuwaiti Bidoon as two known stateless populations and Bahrain, Eritrea, Iran, Iraq, Myanmar, Somalia, Sudan, and Syria as countries from which large numbers of stateless persons come to Europe. When the countries listed by the Global Campaign for Equal Nationality Rights as of June 2020 as countries which deny women the right to pass their nationality to their own children on an equal basis with men are correlated with those countries of origin of a significant number of refugees in Council of Europe Member States, the following list is generated: Bahrain, Iran, Iraq, Kuwait, Somalia, Sudan, and Syria, although smaller numbers of refugees may also come from the other countries on the list: Barbados, Brunei, Burundi, eSwatini, Jordan, Kiribati, Lebanon, Liberia, Libya, Malaysia, Mauritania, Nepal, Oman, Qatar, Saudi Arabia, Togo, and the United Arab Emirates.

This review found evidence that this list does not exhaust the situations in which gender discrimination leads to statelessness. In one reported case, the applicant had obtained evidence in the form of a letter from the Pakistan High Commission that she would be unable to register her child born outside of Pakistan as Pakistani because her marital status was single on her 'NADRA' card.<sup>3</sup>

Those working on statistics report lack of civil registration as one of the big problems for accurate documentation of statelessness. Not only is there non-registration of births, but non-registration of deaths: for some of these children it is as though they never existed. As recorded in the fourth Fatal Journeys report:

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<sup>3</sup> UK PA/01721/2017, decision of March 2018: <https://tribunalsdecisions.service.gov.uk/utiac/pa-01721-2017>

*Lack of civil registration for births across many countries also makes the existence of many children invisible in life and so too in death.*

Indeed, the fourth Fatal Journeys report is one of the most detailed studies on identity and migrant children and how to do ethnical research in this area. It is highly recommended not only to all those wishing to do work on statistics in this area, but more broadly.

All the written work, and all the individuals, consulted for this review highlight civil, including birth, registration as key to the success of their endeavours to gather meaningful statistics on stateless populations.

### **3.2.1 Those holding knowledge, information and power to effect change on this issue**

Important work is being done within the UN and EU systems on this issue. While States collect data, supranational bodies often design the frameworks within which this data is collected, particularly in the case of migration statistics where a lot of the data is collected for comparative purposes.

Collection of accurate data on statelessness and on mobile populations cannot be separated from broader questions of data collection.

A very fruitful way into these discussions is via the academics advising on or contributing to this work and the author is grateful to Ann Singleton and Professor Brad Blitz for giving their time to discuss this work. This review has not identified a need for ENS or its members to be advocating toward these bodies. They appear to be aware of the relevant issues. Much more important is using what they produce: advocating for States to implement their recommendations and categorisations and making proper use of them in the NGO's own work. Being familiar with the available statistical data in the relevant country is an important part of advocating towards the authorities and the statistical data available is currently underused.

There are particular windows of opportunity when a country moves to collect census data, but there are many categories competing for a box on a census form, and it is necessary to start work well in advance for it to have any prospect of success.

NGOs are not in a position to produce useful statistical data as their datasets are almost always incomplete. What they may be very well placed to do is to identify examples that show that official statistics are inaccurate and thus highlight a problem to be addressed.

There is scope to identify different recording of statelessness, and thus how stateless persons are being missed, by looking at differences in information held in different parts of the State or submitted to different national institutions. Those who are well-placed to push for better data include:

- Eurostat
- Registrars and civil registry officials
- Civil servants responsible for issuing refugee documentation
- Government Ministers responsible for refugees, children and birth registration
- Competent authorities for refugee and stateless status determination procedures

- International organisations assisting States with the above procedures
- State bodies with budgets for public information on birth registration
- International organisations with budgets for public information on birth registration, including UNICEF
- National statistical bodies
- UN, EU, and Council of Europe statistical bodies

Those well placed to interrogate the above, and cause them to question their information include:

- Parliamentarians at national, EU, and Council of Europe level
- Civil servants involved in presenting legislation on refugees, statelessness, and birth registration to parliaments
- International committees to whom reports are submitted such as the Committee on the Rights of the Child, Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, etc.
- Ombudspersons and supervisory bodies including the Council of Europe Commissioner for Human Rights.

### **3.3 Law reports and individual unreported cases**

Relevant cases include challenges to a determination of whether a person is stateless or not, but also immigration and asylum, including family reunion, and potentially trafficking and expulsion cases where a person's immigration history, including statelessness, is recounted. These could be at national level or could be found in applications to the European Court of Human Rights and (as described below) to the Court of Justice of the European Union. Although this review has not found any, it is possible that there may be challenges to refusals to register a birth, or to issue a passport, that may expose statelessness.

Cases provide rich evidence, often including a narrative on how the State has dealt (or not) with the child. There is scope for further research into what the reported cases reveal. It is important to bear in mind that the cases will not all be asylum cases but may involve other children in migration.

Case studies are useful because findings of fact have often been made by a judge, addressing a problem when deriving cases from NGO or press reports, that understanding of the law by the person recording the information may affect its quality. The term 'stateless refugee' is often used, for example, of persons who have a nationality.

The well-known case of *Gerardo Ruiz Zambrano v Office national de l'emploi (ONEm)* C-34/09 on European Citizenship starts with a classic case of statelessness: the children were not Colombian because their births had not been registered with the competent Colombian authority as Colombian law requires for transmission to a child born abroad.

Court reports of UK cases and the databases of the UK tribunal reveals several such cases from children born to Indian parents. The leading case is *MK*.<sup>4</sup> The UK requires five years' residence on the territory for a stateless child born on the territory to acquire British nationality. In *MK*, the court identified a risk that parents would deliberately decline to register their child to secure nationality for the child and facilitate the family's stay in the UK. Efforts have been made in subsequent cases, especially where the child is not old enough to register, to assert that the parents' failure to take the simple step of registering the child defeats their human rights' claim (tribunals have subsequently found against human rights applications by families on this basis<sup>5</sup>).

In 2001, the Irish Nationality and Citizenship Act was amended to remove pure *ius soli*. The provision for the prevention of statelessness now reads:

*(3) A person born in the island of Ireland is an Irish citizen from birth if he or she is not entitled to citizenship of any other country.*<sup>6</sup>

The language of 'entitled to' was introduced to give effect to the 10 April 1998 treaty between the Government of Great Britain and Northern Ireland and the Government of Ireland (the Belfast Agreement), but it means that Ireland's definition of a person born stateless on the territory falls short of the 1954 Convention definition. Together with the loss of *ius soli*, this puts children born in Ireland at risk of statelessness.

Where registration is a necessary step to becoming a national, the child who is not registered fits within the 1954 Convention definition. Failure to register a child when it is not possible to do so because the parent is recognised as having a well-founded fear of approaching their own State should result in the recognition of a child as a stateless person. This suggests that there is scope for advocacy at the point at which the parent, or the child, is recognised as a refugee. In such cases, the child, if stateless (including because of failure to register the birth with the parents' State/s of origin), should acquire the nationality of the country of asylum. The reported cases show that there is scope for advocacy where refugee parents are recognised as being unable to approach the authorities of their country (or countries) of origin.

Case reports demonstrate, as discussed above, that there are stateless Romani children, for example in the Netherlands, although it is less clear that they are refugee children. There are frequent references to Palestinian cases in the case reports and in administrative records of authorities determining claims for asylum in the EU. There are also recorded instances of refused asylum seekers, for example people of mixed Ethiopian/Eritrean heritage, having approached the competent authorities and not been recognised as nationals. The child's nationality is not always the focus of the case but may be considered as part of a human rights claim.

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<sup>4</sup> R (MK) (by her litigation friend CAE) v Secretary of State for the Home Department [2017] EWHC 1365 (Admin)

<sup>5</sup> See e.g. HU/12520/2019, HU/12531/2019, HU/20677/2018, HU/20675/2018

<sup>6</sup> Section 6(3) of the Act

There are also likely to be refused asylum-seekers who have a well-founded fear of persecution for a Convention reason but who, for some reason, have been unable to satisfy the authorities of this.

Statelessness may be revealed at the point when the embassy declines to document them for removal. It may have been unknown to the person before then. In the UK, it is only possible to access the statelessness determination procedure once other bases of stay, such as a claim for asylum or a claim on human rights' grounds, have been refused. In some cases, statelessness may be discovered during an attempted deportation or removal including, in extreme cases, where a person is not permitted to land.

A woman who cannot transmit her nationality, who gives birth to a child of a stateless father, or a father who cannot transmit his nationality, or to an unknown father, after she has been refused international protection, may give birth to a stateless child. Such cases may also provide valuable information about what would happen to refugees were they to approach their embassy. It is therefore strongly suggested that projects include work with people who have been refused international protection.

Reported cases often set out the history of what has happened in a case, although this cuts off abruptly at the moment of judgment. Individual lawyers, equipped with their files, may hold a longer view.

Successful claims for international protection lead to recognition as a refugee and a grant of residence status, holding out the possibility of acquiring nationality in due course. Recognition as a stateless person may lead to the child's registration as a national or to a grant of residence and ultimately the ability to apply for naturalisation.

Legal challenges may also be a direct way of challenging the failure to recognise a child as a national. In Spain, Proyecto Ödos with Fundación Profesor Uría are preparing a legal challenge to seek registration of a child born in Morocco but never registered there, to ask that she be registered in Spain and afforded Spanish nationality. The case has implications for other children born in transit who are now in Spain.

### ***3.3.1 Those holding knowledge, information and power to effect change on this issue***

Those holding knowledge in this area are lawyers, judges, and decision-makers in the asylum, immigration, or trafficking systems, and where applications for passports and other entitlements are adjudicated upon. They may also include individual support workers who have advocated for children and families on these entitlements, where they have appreciated that what they are dealing with is a potential, or actual, lack of recognition by any State as a national by operation of its law.

The International Association of Refugee Law Judges would be an excellent starting point for comparative work, but its resources are limited, and it may be necessary to seek champions or to identify a way to make a joint bid for funding.

In many countries the information may not have been fully explored because it is hard to access or because insufficient numbers of people with the necessary combination of

language and legal skills have been interested in the matter. Many international researchers will only use material in English, or sometimes French.

There is considerably more to be done to extract relevant information from cases that are already reported. It is likely that there is a great deal more information in the form of administrative case files that could usefully be examined. This raises many ethical and data protection questions and Samuel Oykere's chapter in the fourth Fatal Journeys report is a useful starting point for thinking about this.

### **3.4 State level information and investigations**

Refugees and stateless persons have a whole range of interactions with State services that may be flashpoints at which the lack of a nationality is, or, more likely, fails to be, identified.

Government Ministers, elected officials, and civil servants may all hold information of relevance. Some will be dealing with statelessness and refugee casework, as detailed above, but there will also be, for example, parliamentarians asking questions on a range of topics, those designing or working in a State's administration.

In Council of Europe countries, ENS's Statelessness Index already captures relevant legislation on asylum, nationality, and statelessness and on civil registration.

Governments, when planning or evaluating legislation may be the source of authoritative reports with access to data that few NGOs can match. Civil registries, residence registries, data from electoral authorities, and social service records have the potential to hold relevant information.

Governments also feed their data into studies by inter-governmental organisations sometimes providing material that has been little interrogated at national level, so it is important always to look for State data at regional or international levels. This is as true of countries from which refugees come as for Council of Europe countries. States may be interrogated on weaknesses in their nationality laws and birth registration. Reports for the Universal Periodic Review are a particularly rich source. Such reports may be a source of information on the laws of countries from which refugees come: not just nationality laws themselves but family laws, laws on marriage, and laws on civil registration, as well as religious laws where the applicable rules depend on a person's religion, or the religions of the two parents in a couple. The way in which a State deals with documents from overseas is also important: if documents are sent from another country, do they have to be verified by lawyers approved by the embassy or consulate in that country, or translated by approved translators, for example?

States where stateless refugee children are a focus of official attention have not been identified in this study. Perhaps the nearest is Hungary, where the State has been persuaded to record children as of 'unknown nationality'. States with large *in situ* stateless populations are, however, likely to have procedures built for them that may serve to identify refugee children.

### **3.4.1 Those holding knowledge, information and power to effect change on this issue**

Those designing a census may or may not capture statelessness. The competent authority or authorities responsible for determining nationality will differ from State to State. In many cases there will be more than one. As well as systems providing identity documentation, and registrars, child protection, education, childcare, tax, national insurance, and healthcare systems are all points at which statelessness may be identified. If an agency sensitised to statelessness records a person's status as such, this can spread through official databases rapidly. The best entry point is not necessarily the system for producing identity documentation. Local authorities should not be forgotten. Registration, for example, may be resourced and organised at local level.

Lawmakers have a role and parliamentarians can boost the profile of the issue, generally, or among themselves, so that it becomes part of law-making. The example of Denmark was given above.

States are likely to do refugee and migration work at a collaborative international level through the EU and Council of Europe: international agencies have an important role to play in influencing them.

### **3.5 Reports of IGOs and NGOs, including refugee community organisations**

The material in this section comes in a wide variety of forms: from printed or online reports to web pages and blogs to videos.

ENS and its members are the source of many NGO reports and are acknowledged more widely. ENS is usually aware of reports by IGOs and may have an opportunity to feed into these.

In terms of IGOs, the role of IOM is increasing through its Global Migration Data portal. It is still less centralised than UNHCR, although this is changing, and it may be helpful to be in touch with country offices in both host countries and countries of origin. OSCE's contributions in this area are also highly practical and relevant and its experience of work with Roma and Sinti in Council of Europe countries has produced several important good practice precedents.

Regional organisations in Europe may also produce results of relevance, and the Council of Europe may increase its focus in this area.

Within the category of NGOs, independent, but State-funded, bodies such as Ombudspersons are included.

ENS publications tend for the most part to reference English language reports. It seems likely that there exist reports in languages other than English that are being missed and it is recommended that project budgets make provision for translation, at least for gisting.

In general, while reports are illustrated with examples, the authors are rarely working with a cohort of affected individuals such as could show patterns or trends, even where there are known to be cases in the country. This gap has implications not only for the accuracy of the

hypotheses in the reports, but for likely media and parliamentary attention paid to their findings. Some of the information gaps may be able to be filled from reported cases as discussed above.

It is recommended that NGOs with a casework service be a priority for support through this project and that projects that can be demonstrated to have links with community organisations and legal representatives be prioritised.

### ***3.5.1 Those holding knowledge, information and power to effect change on this issue***

ENS and some of its members have good links with the UN agencies involved in producing reports and with regional institutions: the Council of Europe and European Union. As indicated above, alongside the work of UNICEF and UNHCR, it is recommended that attention be paid to the work of IOM. As well as working with these agencies it may be helpful to be in touch with experts advising statistical divisions.

ENS member, the European Roma Rights Centre, holds knowledge on the work done by the OSCE.

There is no indication that the Council of Europe will be doing work with stateless refugees, but the Council of Europe High Commissioner for Human Rights may be a good entry point, including through the work that her office has done on family reunion. There is scope to urge the High Commissioner to look at Roma and Sinti children seeking internal protection in other Council of Europe countries. Here, useful work has been done by ENS members in the Netherlands.

The European Committee on Legal Co-operation has convened international conferences on statelessness to raise awareness and promote the implementation of Council of Europe standards in this field and has held a series of technical meetings on specific statelessness issues. Its involvement should be explored.

In the EU, EASO could be urged in its production of country information reports to consider statelessness. The pressure on EASO to translate its reports should also be kept up. Those involved in training are particularly well placed to spread awareness.

Ombudspersons may be very important because of their access to official records and their ability to obtain answers to questions that remain unanswered when asked by NGOs or individual MPs.

As to NGOs, what ENS needs to do in this research is to use its network effectively, to make use of those NGOs with good links to community organisations and lawyers doing the casework. This is likely to include members who have a casework arm themselves.

### **3.6 Academic**

Statelessness is an increasingly popular field of academic study. Some empirical studies are being done by PhD students, which may offer both useful information and models for small scale empirical studies, although their reach is limited.

Academic experts frequently sit on UN Committees or are commissioned to produce reports.

A topic of growing academic interest is that of what happens to those children of nationals of Council of Europe member states who are deprived of their nationality, for example while overseas with Daesh.

Academic work takes the form of written studies and articles although the Institute of Statelessness and Inclusion has experimented with social media.

Very often academic experts are asked to work for IGOs, or sometimes NGOs, or to sit on advisory, standing, or *ad hoc* groups. Their academic work may predate these posts or seek to explore a topic from a more theoretical perspective. One interest of academic work is where it uncovers new stateless populations or new areas for study, but this review has not found evidence of this.

### **3.6.1 Those holding knowledge, information and power to effect change on this issue**

The Institute of Statelessness and Inclusion works closely with ENS and is very well-informed of into academic work in this area. It is in touch with the Peter McMullin Centre at the University of Melbourne, which also hosts the global PhD network. There is an overlap between the countries of origin of refugees seen in Oceania and in Europe, although numbers from the different groups tend to be very different.

### **3.7 Press reports and social media**

(See Annex 3 Other: press) Press reports from/on source countries yield information about statelessness, reports on statelessness, initiatives to address statelessness and political considerations. See for example the Al Jazeera series on stateless children in South Africa, based on a report by the NGO Scalabrini.

## **4. Gaps in the evidence and analysis**

### **4.1 Reflections and experiences of parents of stateless refugee children and stateless refugee children**

See 3.1

### **4.2 Material in languages other than English**

Including material produced in the languages of refugees (see 3.1).

### **4.3 Nexus with trafficking**

One question this review sought to explore was whether the reason for being reluctant to register the births of children not born on the territory was to avoid providing a document that might legitimise a trafficking relationship. No evidence was found, however, to suggest that this question had been explored in the European context (the Institute of Statelessness and Inclusion has done academic work on it about Thailand). Work on whether that concern could be overcome using DNA evidence, and how that might work in practice, might have

been expected. Systematic use of DNA tests to verify migrant and refugee family relations should not be encouraged. It is important that real reason for doubt exists before resorting to such evidence, but it is already used, for example in cases of family reunion. It is also important not to suggest that a birth cannot be registered without such information as is available, even where there are gaps. But where there is a real safeguarding concern as to the relationship between parent and child, and it is acknowledged that, if born to the parent as asserted, the child would be stateless, then DNA evidence may have a place. This is an area that merits further exploration.

The question of stateless children born to trafficked persons is likely to be of limited interest to this research as people subject to exploitation are rarely allowed to bring dependants with them, or to carry a child to term. There is no reason intrinsic to the situation of a trafficked person why they should be reluctant to approach their embassy, and where there are fears, they are likely to access a refugee status determination procedure. The issue is rather whether State concerns about trafficking and exploitation are at the root of refusal to provide birth registration. This research may identify that safeguarding concerns around trafficking are not distinguished from concerns about unlawful migration. There is a danger that research could end up handing this reason for non-registration of births to States for their use in resisting calls for registration, but there is more to explore here.

For reasons that have been comprehensively examined in the UK context, DNA evidence is an extremely poor indicator of nationality and this should be avoided as a research focus. The tools for attributing nationality on the basis of DNA, or on the basis of language testing, are generally in the hands of people using them for profit and while their ability to provide useful evidence on country of origin is highly questionable, their ability to prove nationality is non-existent.

#### **4.4 Older children**

The work of NGOs has tended to be about children born in transit or in countries of refuge and has thus tended to focus on younger children. Where statelessness is prevalent among a community this has implications for older children. Palestinian or Kuwaiti Bidoon teenagers are no less stateless than Palestinian or Kuwaiti Bidoon adults. Sizeable numbers of unaccompanied minors in Europe have come from Afghanistan, Iran and Iraq, all countries with significant stateless populations. Unaccompanied minors from Eritrea also reach Europe. Very frequently these young people have travelled without their own documents (for example, Iraqi and Iranians coming from the border area).

Importantly, there may be more opportunities for a young person to obtain nationality before they reach the age of majority. Fees may also be lower.

Young people are also more likely to be linked with a system that could, if alerted and motivated, take action on their lack of nationality, although it is the case that the over-16s do not receive the level of support that is needed by a child in all States.

Research to look at the level of awareness among social workers, teachers, and others working with these children may be helpful.

Older children may also have the problem described above, of not having an effective nationality because the reasons for which they have claimed protection mean that they are reluctant to approach the competent authorities of their country of origin for documentation. By the time their protection claims are resolved, they may be adults. If the claim is refused and they do have to approach their embassy, or the State that has rejected the application approaches their embassy on their behalf, then any rejection by that State to recognise them as nationals by operation of its law may come too late.

#### **4.5 Refugee family reunion**

This review has not found work on refugee family reunion and statelessness (aside from mentions in ENS and ISI's Stateless Journeys research and resources). Stateless family members of recognised refugees may be trapped by their statelessness in the country in which the refugee was persecuted. This should not be a barrier to family reunification because it should be possible to secure travel warrants for them, but what happens once they arrive in the country of asylum? This is a potentially interesting area for study.

### **5. Filling gaps in the evidence and analysis**

For all the reasons given above, ENS and its members should be prioritising ways to increase the involvement of stateless children and their families as participants in research and not just as tellers of tales.

By far the richest source of information uncovered through this review has come from legal representatives doing casework with these children and their families. Academics and NGOs have been keen to point to lawyers. Databases of reported cases have a lot to teach about stateless refugee children, but the richest information is held in individual case files, whether those of lawyers or the State. It is suggested that those ENS members best placed to research stateless populations in their State are those who undertake legal casework or who have excellent relationships with lawyers willing to assist them. Data protection concerns, especially in this very sensitive area are likely to mean that it is not possible to interrogate data held in State files. Rather, it is necessary to look to those who do have permission to look at such data: independent bodies such as Ombudspersons and parliamentary committees and seek to engage their interest in doing this work.

It is not suggested that ENS members should endeavour to plug statistical gaps: they are ill-placed to do this quantitative work. Research that would be helpful includes:

- Working to generate counter examples to illustrate limitations or errors in the statistics: e.g. individual cases of statelessness that do not appear in the statistics.
- Making better use of statistics in research to identify cases where there are problems. Statistics will not tell a researcher in this field what the problem is, but they may assist in telling them where to direct their research efforts and what questions research needs to answer (e.g. why is there a problem for population X? Why has population Y not been recognised as stateless, etc.)

Reported cases are a rich source of information on statelessness, and unreported cases may also be. The case studies gathered for this report have come from lawyers and those doing legal casework.

It is recommended that all research by ENS members incorporates an analysis and interrogation of the statistics for the State in question.

Statistics can also warn of political flashpoints as they can point to a large stateless non-migrant population in a State or suggest that statelessness is an issue among migrant populations who are not refugees. Where a significant part of the stateless population is not made up of refugees it must be considered how far this shapes the environment for advocacy and the extent to which it is likely to be effective, in the particular political climate, to advocate for refugees as a distinct group. Bids for research funding should be asked to address this.

## **6. Communicating more clearly and effectively**

Communications need to be read by refugees and stateless persons. Available tools for translation and interpretation by use of artificial intelligence, to reduce the workload, should be used.

Communications should embrace a variety of forms, including social media and video. The COVID-19 pandemic has been a reminder that electronic copies of documents travel more quickly and easily than hard copies and has also taught us much about which formats are easier to read online. Remote interviews are now revealed to be possible, and new methods for recording web interactions and for sending documents securely have been learned. It is always important to pay attention to data protection in this context.

Stateless (recognised) refugee children are not a cohort neatly to be divided from stateless migrant children, or stateless children of those seeking or refused international protection. Policy and procedures, and resistance to change, may be shaped by this wider migration, or indeed the wider statelessness context, rather than the response to refugees. There are, however, distinct problems faced by refugee children and these provide a more fruitful organising principle for this work than trying to design a meaningful population of concern that is 'stateless refugee children'. It is suggested that where other children face the same problems they should be included in the research.

## **7. Developing concrete and measurable policy and legal solutions**

### **7.1 Safe participatory research**

For the best information and for maximum impact, prioritising participatory assessment involving affected populations is recommended.

Outreach activities with the concerned populations, including with a view to devising participatory research strategies that allow for gathering evidence but also analysis, and feed into targeted awareness-raising campaigns and advocacy, are often most effectively conducted by local grassroots and community-based groups who are familiar with the stateless or at risk populations and the local context.

Samuel Okyere's writing on ethics in the fourth Fatal Journeys report is relevant here:

*...ethical principles of voluntary informed consent, beneficence, harm avoidance, justice and dignity for participants, their families and affected communities should be approached as a process rather than as "one off" fixed acts. Ethical considerations and strategies should span the full research cycle, from seeking funding to publication of results and advocacy.*

It is vital that ENS members selected to participate in the research can work to the highest ethical standards. Those who already do casework with individuals affected by statelessness are likely to have the relevant experience as well as policies and procedures that have been tested. These should be overlaid with an understanding of where ENS members have resources to commit to participatory, multi-lingual research and influencing work as well as their scope for influence. ENS members are best placed to identify which advocacy goals may be achievable in their State, albeit that intelligence about government attitudes may be gleaned in international fora.

## **7.2 Identifying children**

Refugees often have no documents and even when they do, little may be known about the laws and practices in their country of origin, for example, a mother's inability to transmit her nationality, an unmarried father's inability to transmit his nationality, or registration requirements. There is a huge need to identify the extent to which children are identified as potentially stateless and to investigate this.

ENS called in its report, *No Child Should be Stateless*, for the European Asylum Support Office to include information on statelessness in its country of origin information. This should be a priority for ENS and those working with the EU institutions and the work should be replicated on a national level in States that produce country of origin information for use in asylum determination procedures, such as the UK. It should also be a priority for those who have opportunities to train State decision-makers and judges: work with the International Association of Refugee Law Judges would be valuable here.

## **7.3 A nationality for every child identified**

The UN Convention on the Rights of the Child at Article 7, the 1961 Statelessness Convention, and the European Convention on Nationality focus on the child's acquisition of a nationality, rather than the recognition of a child as stateless, and rightly so given that the 'right to have rights' comes with a nationality. The legal solution is that a child be afforded a nationality with the least delay possible.

The national context is all important. Where there are requirements of residence, or lawful residence, for a grant of leave, and stateless determination procedures are a gateway to such grants, advocacy can usefully be directed at strengthening them. Where there are no such requirements, or where the statelessness determination procedure does not lead to leave, it is less significant.

The quickest route to a nationality will not always be for the child first to get a nationality. The naturalisation of the parents may be what paves the way for the recognition of their stateless child.

Many refugees in Europe live in poverty and a valuable advocacy goal is to try to eliminate fees for birth registration or for registration as a national.

Refugees go through an asylum determination procedure therefore it is desirable that statelessness determination can take place, where possible, as part of that procedure, and that a grant of nationality to the child be considered at the point where parents are recognised as refugees.

Some refugees come from countries that prohibit dual nationality, where acquisition of the nationality of the host State may forever rule out acquiring the nationality of the State of origin. There may also be people seeking protection who are trying to reach a particular country of refuge and do not aspire to the nationality of the State in which they find themselves. These are reasons militating against automatic acquisition. Arguments in favour of automatic acquisition include bureaucracy, and the risks of barriers such as fees.

#### **7.4 Birth registration**

Recognition at a policy level that birth registration with the competent authority of the country of origin is not possible for refugees and that where a person is recognised as a refugee that their stateless child should be granted nationality, is enormously important. This is not possible at the moment in a country such as Ireland, where a child born on the territory can be registered as an Irish national where it is recognised that they are ‘not entitled to’ any other nationality. ‘Where possible’ because what is not on offer for a refugee is to check back with the national embassy and this may lead to difficulty in proving the negative that is lack of entitlement.

Some form of birth registration: a document to confirm that a child exists, is an achievable advocacy goal. Every child has a right to be recognised as a person before the law and it is the most senseless type of bureaucracy that refuses a child this basic right because the not all the boxes can be ticked: because nationality is not known. Here there is scope for debate with States as to what can be provided.

The OSCE has documented the passage of the Serbian Law on Non-Contentious Procedures, adopted on 31 August 2012. It describes how:

*With critical support from the Ombudsman’s Office, project partners engaged in intensive dialogue with parliamentarians, joint advocacy work and continuous efforts to raise public awareness on the seriousness of the problem and the efficacy of the solution. These efforts resulted in a draft model law on legal subjectivity, and subsequent amendments to the law. The amendments facilitated a simplified procedure for establishing the time and place of birth of persons who had been long unsuccessful in meeting the complex administrative requirements, allowing for their births to finally be registered.*

Pressure from above on States from the UN Committee on the Rights of the Child, from the Council of Europe and the EU may be influential, as may pressure from below, for example from the medical profession. In Calais, the NGO Gynécologie Sans Frontières was, for example, active in securing registration of births in the camps.

## 8. Key findings relevant to the production of a framework and methodology

This section gathers together comments and recommendations made above.

This study does not call into question the research that the European Network on Statelessness has pursued, nor the conclusions it has reached. Its name crops up again and again, suggesting that it is reaching its interlocutors. What research then, will give those recommendations life?

Based on the findings of this review, it is recommended that what is required is participatory, action research that sets out to attempt to achieve tangible benefits for children, and documents which strategies work, which do not, and why. Participatory means working with refugee families to try to achieve these outcomes for their children, while including them in reflection and analysis on what is working and what is not. The accounts of parents of stateless children, and the documents they hold, are important in understanding how statelessness is produced and key to understanding how it is negotiated.

As set out in this report, to be participatory, work must be supported by adequate interpretation and translation so that people can express their views at an analytical level, not just have a questionnaire explained to them. It must be possible to draw on material produced by refugees or in countries of origin, including government information from the country of origin. Project budgets should make provision for translation, or at least for gisting.

ENS should invite applications from members who have identified a cohort of children for whom they believe that they can achieve tangible outcomes.

To use the network effectively, it will be important to prioritise work by those NGOs with good links to community organisations and lawyers doing the casework. This is likely to include members who have a casework arm themselves. The richest accounts received through this review, and the most information, have been from those doing case work. Not necessarily, indeed not usually, on statelessness, but normally on the asylum case, or exploring other avenues when the claim for asylum has been refused. Research needs to involve those doing casework to have prospects of yielding information. These may be members who have a casework arm (although they may provide casework on welfare matters not necessarily on statelessness or asylum), or members who are themselves community groups whose members include stateless refugee children. Members who do not have a casework arm or community groups will need to have teamed up with a casework organisation/legal practice. They may aim to achieve change by working on test cases (not necessarily by going to court). Or they may be working directly with a larger group of children. But, from the outset, they can point to intended, not merely potential, beneficiaries.

Another advantage of prioritising those doing casework is that they are most likely to have developed safeguarding procedures and ethical frameworks. Robust ethical frameworks must be developed for this work.

The intended outcome must be tangible benefit for individual stateless or potentially stateless children of refugees or refugee children. It is important to include those whose claims for protection have been refused in the sample: not least because they may be in a different position *vis à vis* approaches to embassies. Children up to 18 should be included: there are opportunities to benefit stateless children that cease to exist once they become adults.

Which of the tangible benefits the research in a particular country attempts to secure will depend on the project. Nationality is the gold standard, but there are others: a residence/immigration status, where this will in time give an opportunity to become a national. Or creating a right to apply for nationality at an earlier stage.

The findings of this review suggest that birth registration is so important that achieving birth registration where it is not permitted, for example for children born outside the territory, would be a worthy goal. But the goal must be in the form of tangible benefits for individuals: awareness raising, education etc. will not be sufficient. Thus, getting children recognised in a statelessness determination procedure, which gives them a residence status that leads to an opportunity to acquire nationality is a tangible benefit, getting them recognised as stateless but with no residence status is not sufficient.

The recommendations that lead directly to tangible outcomes for individuals are highlighted in bold in Annex I.

The original bid will lay the foundations for the project report. At each stage in the reporting cycle the project bid will be the template for the report on progress and the opportunity for reflection on what has worked and what has not.

NGOs are not in a position to produce useful statistical data as their datasets are almost always incomplete. What they may be very well placed to do is to identify examples that show that official statistics are inaccurate, and thus highlight a problem to be addressed. Reports should highlight such counter examples. This requires familiarity with the statistics at national, regional, and international level, including in some cases on the refugee's country of origin.

Interlocutors should be identified in the initial bid. This can be refined as the projects progress. Independent official bodies may be very important because of their access to official records and ability to obtain answers to questions that remain unanswered when asked by NGOs or individual MPs. It is recommended that they be approached in all States.

Where it becomes apparent during research that pressure at regional level, or across the region is needed, ENS and its members can be called upon.

The reports submitted will require analysis and interrogation at project level and by ENS to demonstrate the evidence gaps identified and filled and what has been learned about developing concrete, and measurable, policy and legal solutions.

It will be necessary for those bidding to identify that there is a real possibility of achieving change: if there is political gridlock on the issue it is unlikely to be suitable for action

research. Again, those involved in casework are often more likely than those engaged solely in advocacy to have constructive relationships at least at some levels of the authorities.

## Annex 1 Existing ENS Recommendations

### ***No Child Should be Stateless: Ensuring the right to a nationality for children in migration in Europe, April 2020***

#### **1 Introduce, improve, and implement safeguards to prevent childhood statelessness**

States should **introduce safeguards in their nationality laws** (in line with the 1961 Convention and the European Convention on Nationality) to ensure that any child who would otherwise be stateless can acquire a nationality, including those born on the territory, born to nationals abroad, foundlings and adopted children. Provisions should cover all children who would otherwise be stateless, **regardless of the residence status of the child or their parents**, they should be accessible to children in detention or in care, and should ideally be automatic so that no additional procedure nor action on the part of the parents or a representative are required.

The Council of Europe should promote the accession of all Member States to the 1997 European Convention on Nationality and the comprehensive implementation in national law and practice of Convention standards, including through the identification of good practice and facilitation of awareness-raising and information exchange among parliamentarians and policy-makers.

The European Union should implement the pledge it made in 2012 for all EU Members States yet to accede to the 1961 Convention to explore doing so, and periodically report on progress towards this goal. Attention should be increased on the causes and impact of – as well as solutions to - childhood statelessness in Europe across all relevant EU institutions and policy areas, including Child Rights, Roma Inclusion, Migration and Asylum, and the External Action Service.

#### **2 Address barriers to immediate free birth registration**

States should introduce flexibility in documentation requirements and birth registration processes, and build the capacity of frontline registry officials, to ensure that stateless, undocumented or other refugees and migrants who cannot provide certain documents are able to access **the right to immediate birth registration** and reduce the risk of childhood statelessness. This should include removing any requirements for public officials to report people without residence status to the immigration authorities, introducing a “firewall” to prohibit information sharing for the purpose of immigration control to ensure access to birth registration for migrants

The Council of Europe should work with Member States to implement the pledge it made at UNHCR’s High-Level Segment on Statelessness in Geneva in October 2019 to promote the right of all stateless children to have **access to their birth certificate and any civil status documents concerning them**. This should include periodic monitoring and reporting on progress towards this goal.

The European Union should promote universal access to birth registration among Member States in line with the European Parliament Resolution on Children’s Rights.<sup>60</sup> This should include the European External Action Service continuing to support and fund efforts to strengthen civil registration systems and issuance of birth certificates in partner countries and promote the realisation of SDG 16.9 in development cooperation.

#### **3 Build capacity and raise awareness among officials, civil society, refugees, and migrants**

States should work in cooperation with civil society to build the capacity of frontline officials, service providers and support organisations in the migration context to facilitate an improved response to statelessness and nationality problems among children in migration, prevent new cases of statelessness arising, and ensure that **statelessness is accurately identified, recorded and the rights of children respected**. Create and distribute clear and accessible information at the national and local level for stateless individuals (on their rights, services,

and specialist lawyers), those assisting them (on the relevant legal frameworks, caselaw, and signposting information), and decision-makers (on the causes and consequences of statelessness, country of origin information, and common profiles of stateless people in Europe).

The European Union should invest in and promote the integration of statelessness-specific resources, information and capacity across agencies involved in migration responses, including the European Asylum Support Office (EASO) and the European Border Agency (Frontex). EASO should incorporate relevant information on childhood statelessness across the work of its Information and Analysis Unit, **in its Country of Origin Information**, in its training development and delivery, and in its operations. Frontex should mainstream statelessness-specific knowledge and resources in its training and handbooks (for example, the VEGA Handbook on Children at Airports)<sup>62</sup> to ensure that **border guards identify stateless children or children at risk of statelessness in border procedures**, and refer them to the appropriate authorities and services. Stateless children should be included in the agency's definition of children at risk/vulnerable to abuse and exploitation in line with UNHCR and EASO guidance.

#### **4 Improve identification and recording of statelessness**

States, working together with relevant EU agencies, should improve and standardise procedures for identifying and recording statelessness and nationality problems during registration procedures for refugees and migrants on arrival, and throughout migration and international protection procedures. The administrative category of 'unknown nationality' should be clearly defined, and **States should have an established and timely procedure for determining the child's nationality and whether they would otherwise be stateless, with the child able to acquire a nationality as early as possible.**

The European Union should prioritise the accurate identification and recording of statelessness and nationality status in the implementation of the Eurodac Regulation and any work towards establishing common EU registration procedures.

#### **5 Introduce dedicated, child rights-based statelessness determination procedures, and ensure appropriate referral**

States should introduce dedicated child rights-based statelessness determination procedures and stateless protection status in line with the 1954 Convention on the Status of Stateless Persons and UNHCR guidance, to allow them to identify and protect stateless children on their territory until they acquire nationality (as soon as possible). Where indications that a child (or their parents) may be stateless arise in migration or international protection procedures, a referral should be made at an appropriate point in proceedings to a procedure to determine their statelessness. The child and/or their guardian should be provided with information and quality legal assistance throughout relevant procedures.

Where statelessness determination procedures already exist, these should be adapted to be child-rights based, taking into consideration the best interests of the child. Procedural and evidentiary safeguards should be put in place including timelines, ensuring that the child is able to acquire a nationality as soon as possible.<sup>65</sup> Principles of non-discrimination (including with regard to the residence status of the child or the parents), shared burden of proof and child-sensitive procedures should be implemented, including through the provision of quality legal assistance, as well as a guardian for unaccompanied children.<sup>66</sup> Making sure affected children can share their views in procedures and decision-making is an important part of ensuring decisions are made in the best interests of the child and in line with international law establishing the child's right to be heard. The relevant safeguards for ensuring effective child participation should be followed in any procedure.<sup>67</sup>

The Council of Europe should implement the pledge it made at UNHCR's High Level Segment on Statelessness in Geneva in October 2019 to support activities for its 47 Member States aimed at introducing or improving the

functioning of statelessness determination procedures. This should include the implementation of future activities by the European Committee on Legal Co-operation (CDCJ) initiative on statelessness, as outlined in its adopted report, allowing governments to share experiences and good practices in improving procedures for determining and resolving statelessness, promoting the need for such procedures to be child rights-based.

The European Union should, including through the European Migration Network Statelessness Platform, support activities aimed at introducing or improving statelessness determination procedures. This should include sharing information and good practices on child rights-based procedures, and how referral mechanisms between international protection and statelessness determination procedures should operate, building the capacity of its Members States to better meet their international obligations under the 1954 Convention.

***Birth registration and the prevention of statelessness in Europe: identifying good practices and remaining barriers, Thematic Briefing, May 2020***

**Advocacy Goals**

- Law and practice provide that all children are registered immediately upon birth regardless of the residence or documentation status of their parents or family members.
- Documentary proof of birth is issued to parents regardless of their or family members' residence or documentation status.
- Any official determination of the child's nationality where the child may otherwise be stateless is carried out by a competent authority with the necessary expertise, in line with good practice, and an established procedure that adheres to the best interests of the child.
- There are no mandatory reporting requirements for public officials that could discourage migrant parents from approaching birth registration authorities.
- Free and prompt birth registration is assured in law and practice even if the period within which the birth should have been declared has expired.

**The following are identified as necessary to achieve those goals:**

- Access to immediate, free birth registration and certification for all children, regardless of their parents' documentation or residence status, or other aspects of their identity.
- Allow for flexibility (in law and practice) in the documentation required for birth registration.
- Build the capacity of civil registry officials to identify and eliminate discrimination and take necessary steps to facilitate registration for those who cannot meet requirements.
- Issue birth certificates to all children regardless of parents' documentation or residence status, or any other aspects of their identity (including sexual orientation or gender identity).
- Remove barriers to reproductive healthcare preventing women from giving birth in public health facilities and registering the births of their children.
- Facilitate late registration after the deadline has passed by simplifying procedures, removing punitive fines or fees and ensuring flexibility where documentation or other requirements cannot be met.
- Provide accurate, targeted and accessible public information about birth registration procedures.
- Remove mandatory reporting requirements that deter people from accessing healthcare and/or civil registration.
- Remove any requirements for public officials to report people with irregular residence status to immigration authorities and monitor practice to ensure this does not happen.
- Introduce legal safeguards ('firewalls') to prohibit public officials from reporting people to immigration authorities when accessing healthcare or civil registration services.

- Issue targeted, accessible, public information to inform people about their rights to access healthcare and civil registration services.
- Improve procedures to determine the child's nationality and identify where they would otherwise be stateless.
- Ensure full legal safeguards are in place so that any child born on the territory who would otherwise be stateless can acquire a nationality.
- Build the capacity of civil registry officials through training and guidance to identify (the risk of) statelessness during birth registration.
- Ensure mechanisms are in place for civil registry officials to refer identified cases for nationality determination to a clear procedure under a designated competent authority with the necessary expertise and safeguards.
- Ensure that children are treated as nationals for the purposes of accessing their fundamental rights while their nationality is determined as soon as possible and in line with their best interests.
- Improve research, standards, guidance, and information about law and policy frameworks for the determination of the child's nationality.
- Improve local, national, and regional data on birth registration.
- Improve cooperation between local, national, regional, and international institutions to collect and publish accurate birth registration data.
- Increase efforts to gather and publish data on birth registration rates among populations disproportionately facing barriers to registration, including undocumented migrants, refugees, members of minority groups, people in residential care, immigration detention or prisons, asylum reception centres, informal settlements, and homeless people.

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Atlas network

ECRE (via Secretariat)

ELENA coordinators' forum  
ELENA vulnerable groups forum  
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Statelessness graduate refugee network, Peter McMullen Centre, Melbourne  
Twitter

**Websites consulted:**

European Migration Network  
Globalcit  
UK Research and Innovation  
Twitter

### **Annex 3 Select Literature**

The ENS reports, *No Child Should be Stateless: Ensuring the right to a nationality for children in migration in Europe* (April 2020) and *Birth registration and the prevention of statelessness in Europe: identifying good practices and remaining barriers, Thematic Briefing* (May 2020), contain extensive references, both to the main literature on the subject and to international standards. It is not the intention to duplicate those here. Rather, the focus is on work that has been of particular assistance to the author in this review.

#### **Analyses by stateless persons**

Al-Anezy, N twitter feed <https://twitter.com/nasserlanezy>

Al-Anezy, N , Kuwait Bidoons Community Association, Al Jazeera Cross-cultural understanding February 13, 2009  
<http://www.aljazeeraah.info/Bidoons/Articles/2009/Kuwaiti%20Bidoons%20Community%20Association%20By%20Nasser%20Al-Anezy.htm> (accessed 23 June 2020)  
British Rohingya Community Twitter feed

Gareginovna Ambartsoumian-Clough, K The future is uncertain for stateless people like me June 23, 2020 <https://why.org/articles/the-future-is-uncertain-for-stateless-people-like-me/> (accessed 24 June 2020)

Kuwaiti Bidoons Community Association

Nalusi, K Being Palestinian [https://www.ucl.ac.uk/~uctytho/Being\\_Palestinian.html](https://www.ucl.ac.uk/~uctytho/Being_Palestinian.html) (undated, accessed 27 June 2020)

Uddin Mohammed, Nijam Twitter feed [https://twitter.com/nijam\\_eng?lang=en](https://twitter.com/nijam_eng?lang=en), see further <https://ucl Leeds.ac.uk/student-and-genocide-survivor-invited-to-the-un/>

#### **UN**

##### ***Economic Commission for Europe***

Conference of European Statisticians Recommendations for the 2020 Censuses of Population and Housing, New York and Geneva, 2015, available at:  
[http://www.unece.org/fleadmin/DAM/stats/publications/2015/ECE\\_CES\\_41\\_WEB.pdf](http://www.unece.org/fleadmin/DAM/stats/publications/2015/ECE_CES_41_WEB.pdf) (accessed 30 June 2020)

##### ***Human Rights Committee***

Reports to the Universal Periodic Review

##### ***International Law Commission***

Succession of States in respect of State responsibility

##### ***International Organisation for Migration***

Global Data Migration Portal <https://gmdac.iom.int/global-migration-data-portal>

Fatal journeys, Volume 4: Missing Migrant children Global data migration analysis centre, 2019

### **UNHCR**

(2008) Measuring Statelessness through Population Census. Note by the Secretariat of the United Nations High Commissioner for Refugees, 13 May 2008, ECE/CES/ AC.6/2008/SP/5, available at: <http://www.unhcr.org/refworld/docid/4a705e4b2.html>

(2010) Listening to the voices of refugees and stateless persons in Ukraine: a report on the participatory assessments in the Autonomous Republic of Crimea, Kharkiv and Kyiv: 2010 report, 2010, available at: <http://www.refworld.org/docid/4edc7d1f2.html>

(2011) UN High Commissioner for Refugees (UNHCR), *Mapping Statelessness in The United Kingdom*, 22 November 2011, available at: <https://www.refworld.org/docid/4ecb6a192.html> [accessed 4 July 2020]

(2012i) Report of the regional workshop on statelessness and the rights of women and children, 18-19 November 2011 Manila

(2012ii) Guidelines on Statelessness No. 4: Ensuring Every Child's Right to Acquire a Nationality through Articles 1-4 of the 1961 Convention on the Reduction of Statelessness: <https://www.refworld.org/docid/50d460c72.html> (accessed 25 June 2020)

(2013) Stephanie Woldenberg, *Access to Civil Documentation and Registration in South-Eastern Europe: Progress and Remaining Challenges since the 2011 Zagreb Declaration*, 2013, available at: <http://www.refworld.org/docid/5280c5ab4.html>

(2015) UNHCR, *Persons at Risk of Statelessness in Serbia – Progress Report 2010– 2015*, Belgrade, June 2016, available at: [http://www.unhcr.rs/media/docs/UNHCR\\_Brosura\\_Apatridi\\_ENGLESKI.pdf](http://www.unhcr.rs/media/docs/UNHCR_Brosura_Apatridi_ENGLESKI.pdf) (accessed 2 July 2020)

(2017) Good Practices Paper - Action 7: Ensuring birth registration for the prevention of statelessness: <https://www.refworld.org/docid/5a0ac8f94.htm>

(2018i) Ensuring the right of all children to acquire a nationality: Connecting the Dots between the Convention on the Rights of the Child and the Convention on the Reduction of Statelessness: <https://www.refworld.org/docid/52206aa54.html>

(2018ii) Summary and recommendations statelessness in Switzerland, UNHCR Office for Switzerland and Liechtenstein

(2020i) Executive Committee of the High Commissioner's Programme Update on budgets and funding 20 February 2020

(2020ii) Job advertisement for Individual Consultant for Production of International Recommendations on Statelessness Statistics, Statistics and Demographics Section, Global Data Service (GDS) UNHCR Copenhagen (closing date 167 June 2020)

### *ExCom*

Conclusion on Civil Registration No. 111 (LXIV) – 2013, 17 October 2013, available at: <http://www.unhcr.org/525fdfef9.pdf> (accessed 1 July 2020)

### **UNHCR/UNICEF**

(2019i) Advocacy Brief: Refugee and migrant response in Europe Ending childhood statelessness in Europe: <https://reliefweb.int/sites/reliefweb.int/files/resources/5c63e7864.pdf>

(2019ii) Gender discrimination and childhood statelessness (with the global Campaign on Equal Nationality Rights and the Coalition on every child's right to a nationality)

### **UNICEF**

(2020) June 2020 (closing date) Consultancy: Legal analysis of sex discrimination in CRVS laws and practice, Child Protection, PD – NYHQ, Req #532038.

(2019) Birth Registration for Every Child by 2030 <https://data.unicef.org/resources/birth-registration-for-everychild-by-2030/>

(2018) Percentage of Children Under Age 5 Whose Births Are Registered (By Sex): <https://data.unicef.org/topic/child-protection/birth-registration/>

(2013i) Every Child's Birth Right: Inequities and Trends in Birth Registration: [https://www.unicef.org/publications/files/Birth\\_Registration\\_11\\_Dec\\_13.pdf](https://www.unicef.org/publications/files/Birth_Registration_11_Dec_13.pdf)

(2013ii) A Passport to Protection: A Guide to Birth Registration Programming <https://www.refworld.org/docid/52b2e2bd4.html>

### **UNSD**

Demographic and Social Statistics, Civil Registration and Vital Statistics: <https://unstats.un.org/unsd/demographicsocial/crvs/#coverage>

UN Operational Definition of Legal Identity and further information on legal identity: <https://unstats.un.org/legal-identity-agenda/>

### **Council of Europe**

1997 European Convention on Nationality CETS 166

(2004) Proceedings of the 3rd European Conference on Nationality, organized by the Council of Europe in Strasbourg, on 11-12 October 2004

2006 Council of Europe Convention on the avoidance of statelessness in relation to State succession CETS 200

(2017) Action Plan on Protecting Refugee and Migrant Children in Europe (2017-2019)

(2019) Action Plan on Protecting Refugee and Migrant Children in Europe (2017–2019),

<https://edoc.coe.int/en/children-s-rights/7362-council-of-europe-action-plan-on-protecting-refugee-and-migrantchildren-in-europe-2017-2019.html>

(2019) Latvia takes important step toward eliminating child statelessness Press release English русский, Strasbourg 18/10/2019

### *Commissioner for human rights*

Governments should act in the best interest of stateless children, Human Rights Comment 15 January 2013

### *European Committee on Legal Co-operation (CDCJ)*

(2019) Analysis of current practices and challenges regarding the avoidance and reduction of statelessness in Europe prepared by Prof. Dr. Gerard-René de Groot for 94 th plenary meeting 13 - 15 November 2019

*European Council on Racism and Intolerance*

(2007) “Ethnic” statistics and data protection in the Council of Europe countries Study Report By Patrick Simon, Institut National d'Etudes Démographiques Strasbourg, 2007, Council of Europe

*Committee of experts*

*Committee of Ministers*

(1999) Recommendation No. R (99) 18 of the Committee of Ministers to member States on the avoidance and reduction of statelessness, 1999, available at: <https://rm.coe.int/CoERMPublicCo>

*Parliamentary Assembly*

(2104) Access to Nationality and the Effective Implementation of the European Convention on Nationality, 9 April 2014, Resolution 1989 (2014), available at:

<http://www.refworld.org/pdf/5346951a4.pdf>

(2016) Resolution 2099 on the need to eradicate statelessness of children

**EU**

(2015) EU Action Plan for Human Rights and Democracy 2015-2019

*Council*

(2015i) Conclusions of the Council and the Representatives of the Governments of the Member States on Statelessness, 04 December 2015, available at: <http://www.consilium.europa.eu/en/press/press-releases/2015/12/04-council-adopts-conclusions-on-statelessness/>

(2015ii) Council Conclusions on the Action Plan on Human Rights and Democracy 2015–2019 as adopted by the Council of the European Union on 20 July 2015, available at:

<http://data.consilium.europa.eu/doc/document/ST-10897-2015-INIT/en/pdf>

*Fundamental Rights agency*

Applying for birth registration 24 April 2018 (web page with excel spreads)

<https://fra.europa.eu/en/publication/2017/mapping-minimum-age-requirements/birth-registration>

(accessed 25 June 2020)

*European Asylum Support Office*

Asylum Report 2020

*European Migration Network*

(2020) Statelessness in the EU: [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00\\_eu\\_inform\\_statelessness\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_eu_inform_statelessness_en.pdf)

*European parliament*

Subcommittee on Human Rights (DROI)

Addressing the Human Rights Impact of Statelessness in the EU's External Action, November 2014, available at: <http://www.refworld.org/docid/5513e2934.html>

2015, the Committee on Civil Liberties, Justice and Home Affairs Practices and Approaches in EU Member States to Prevent and End Statelessness.

#### *Eurostat*

(2020) First-time Asylum Applicants in the EU-28 by citizenship, Q3 2018 – Q3 2019:

<https://ec.europa.eu/eurostat/statistics-explained/index.php/>

Asylum\_quarterly\_report#Where\_do\_asylum\_applicants\_come\_from.3F

(March 2020) Acquisition of citizenship, statistics explained <https://ec.europa.eu/eurostat/statistics-explained/pdfscache/29886.pdf>

#### *Frontex*

(2015) VEGA Handbook: Children at Airports. Children at risk on the Move Guidelines for Border Guards: <https://euagenda.eu/upload/publications/untitled-6371-ea> (Web view)

#### **OSCE**

(2009) OSCE/ODIHR, Guidelines on Population Registration, 2009, available at: <http://www.osce.org/odihr/39496>

(2011) A Conference on the Provision of Civil Status Documentation and Registration in South Eastern Europe (Zagreb, 26-27 October 2011)

(2014) High-level Conference on Durable Solutions for Displaced Persons from Kosovo.

#### *Mission in Kosovo*

(2014ii) Joint Communiqué from the High-Level Conference on Durable Solutions for Displaced Persons from Kosovo, Skopje, 27-28 November 2014, available at:

<http://www.osce.org/kosovo/129376>, <http://www.osce.org/kosovo/17944>

(2015) OSCE/ODIHR, Summary Report: Expert Seminar on Access to Identification and Civil Registration Documents by Roma in Ukraine, 2015, available at: <http://www.osce.org/odihr/211996>

(2017) Handbook on Statelessness in the OSCE Area: International Standards and Good Practices 28 February 2017

#### **NGO**

##### *ENS*

##### **#Hearitfromus**

Ending Childhood Statelessness: Country Studies (<https://www.statelessness.eu/capacity-building/training/conference-none-europes-children-should-be-stateless>): Albania, Estonia, Italy, Latvia, Macedonia, Poland, Romania and Slovenia.

##### *ENS blog*

(February 2020) McGee, Thomas & Albarazi, Zahra, 'Statelessness among Syria's displaced: Still unidentified' (ENS blog: <https://www.statelessness.eu/blog/statelessness-among-syria-s-displaced-still-unidentified>)

October 2019 Rising to the challenge: promoting the voices of stateless people in Europe Khadija Badri <https://www.statelessness.eu/blog/rising-challenge-promoting-voices-stateless-people-europe>

(September 2019), McGee, Thomas, 'Stateless Syrians in Europe: Navigating the "Knowledge Gap"' ENS Blog: <https://www.statelessness.eu/blog/stateless-syrians-europe-navigating-knowledge-gap>

ENS and Institute of statelessness and inclusion (including with other partners)

McGee, T, (2019) 'Experiences of Stateless Kurds and Palestinian Refugees from Syria Seeking Protection in Europe From Syria to Europe' (2019) Institute on Statelessness and Inclusion (ISI) & European Statelessness Network (ENS) & ASKV Refugee Support

(February 2018) ENS, ISI, ERRC and Tirana Legal Aid Society. Roma Belong: Statelessness, Discrimination and Marginalisation of Roma in the Western Balkans and Ukraine., p. 34: <https://www.statelessness.eu/sites/www.statelessness.eu/files/attachments/resources/roma-belong.pdf>

(July 2018) Praxis, ENS, ISI and ERRC. Alternative report concerning Serbia to the CEDAW Committee for consideration at the 72nd Pre-Sessional Working Group (23-27 July 2018) <https://www.statelessness.eu/resources/joint-alternative-report-serbiacommittee-elimination-all-forms-discrimination-against>

(2019) UN Committee on the rights of the child 84th Pre-Sessional Working Group (30 Sept 2019 – 04 Oct 2019) Hungary Civil Society Comments on the State Party Report and Questions for the Constructive Dialogue Thematic Joint Submission on the right of every child to acquire a nationality under Article 7 CRC 1 September 2019

[https://files.institutesi.org/ISI\\_Joint\\_Thematic\\_Submission\\_Hungary\\_CRC\\_84.pdf](https://files.institutesi.org/ISI_Joint_Thematic_Submission_Hungary_CRC_84.pdf)

<https://statelessjourneys.org/resources/>

(2019) Addressing Statelessness in Europe's Refugee Response, p.4: [https://statelessjourneys.org/wp-content/uploads/StatelessJourneys-Addressing\\_statelessness\\_in\\_Europ\\_refugee\\_response-FINAL.pdf](https://statelessjourneys.org/wp-content/uploads/StatelessJourneys-Addressing_statelessness_in_Europ_refugee_response-FINAL.pdf)

(2019), Statelessness in Iraq Country Position Paper: <https://statelessjourneys.org/wp-content/uploads/StatelessJourneys-Iraq-final.pdf>

(2019), Statelessness in Iran Country Position Paper: <https://statelessjourneys.org/resources/statelessness-in-iran/>

(2019), Statelessness in Kuwait Country Position Paper: <https://statelessjourneys.org/resources/statelessness-in-kuwait/>

(2019), Statelessness in Myanmar Country Position Paper: <https://statelessjourneys.org/resources/statelessness-in-myanmar/>

(2019), Statelessness in Syria Country Position Paper: <https://statelessjourneys.org/wp-content/uploads/StatelessJourneys-Syria-August-2019.pdf>

(2019) Country briefing on Serbia: <https://statelessjourneys.org/resources/statelessness-and-refugees-in-serbia/>

(2019) Country briefing on The Netherlands: <https://statelessjourneys.org/resources/statelessness-and-refugees-in-the-netherlands/>

(2019) Country briefing on Greece: <https://statelessjourneys.org/resources/statelessness-and-refugees-in-greece/>

ECRE (2017) The right to a nationality of refugee children born in the EU and the relevance of the EU Charter of Fundamental Rights <https://www.ecre.org/wp-content/uploads/2016/12/refugee-children-nationality-LEAP-leaflet.pdf>

Global Campaign for Equal Nationality Rights: <https://equalnationalityrights.org/>

Hungarian Helsinki Committee (2019) Nationality unknown January 2019

(2019) Independent Chief Inspector of Borders and immigration (UK) An inspection of the policies and practices of the Home Office's Borders, Immigration and Citizenship Systems relating to charging and fees, 4 April 2019

Network of European LGBTIQ\* Families Associations (NELFA) The Cross-Border Legal Recognition of Rainbow Families Under EU Law. February 2020:  
<http://nelfa.org/inprogress/wpcontent/uploads/2020/02/NELFA-Rainbow-families-and-EU-Law-Tryfonidou-final.pdf>

Network of European LGBTIQ\* Families Associations (NELFA) Freedom of movement in the European Union: Obstacles, cases, lawsuits... Available from: <http://nelfa.org/inprogress/wp-content/uploads/2020/01/NELFA-fomcasesdoc-2020-1-1.pdf>

(2019) Norwegian Refugee Council: Barriers from birth Undocumented children in Iraq sentenced to a life on the margins

Ombudsman for Children, Ireland (2020) Pathways to Irish Citizenship report, commissioned by the Ombudsman for Children's Office

PICUM (2017), Lilana Keith, Blog *Risk of Statelessness for Children of Undocumented Parents in Europe*: <https://picum.org/risks-statelessness-children-undocumented-parents-europe/>

Scalabrini (2019) Foreign children in care, Comparative Research Report, South Africa

### **Academic**

(2020) Trends in birth right citizenship in EU 28 2013-2020, Technical Report, [Global Governance programme], GLOBALCIT, Comparative Reports, 2020/02, [Global Citizenship]; Honohan, I <https://cadmus.eui.eu/handle/1814/66646>

(2019) Decolonising Multilingualism, Phipps, Alison

(2019) Protecting the Children's Right to Nationality in Malaysia: An Appraisal. Afandi, N. Yusoff, R. C. S., H. M. B., Hashim, N. M., & Hak, N. A. *International Journal of Academic Research Business and Social Sciences*, 9(6), 358–368.

(2019) Counting the population in need of international protection globally in *Data in Society: Challenging Statistics in an Age of Globalisation* edited by Evans, J., S Ruane 2019

(2017) Analyzing the Causes of Statelessness in Syrian Refugee Children Howard, David M 52 *Tex. Int'l L. J.* 281 (2017)

(2019) Gerbig, S. No Papers – No Birth Certificate? Recommendations for Registering Children of Refugees Born in Germany. *German Institute for Human Rights*:  
[https://www.ssoar.info/ssoar/bitstream/handle/document/64394/ssoar-2019-gerbig-No\\_papers\\_-\\_no\\_birth.pdf?sequence=1&isAllowed=y&lnkname=ssoar-2019-gerbig- No\\_papers\\_-\\_no\\_birth.pdf](https://www.ssoar.info/ssoar/bitstream/handle/document/64394/ssoar-2019-gerbig-No_papers_-_no_birth.pdf?sequence=1&isAllowed=y&lnkname=ssoar-2019-gerbig- No_papers_-_no_birth.pdf)

(2017) Hartley, Dilys Statelessness and the Syrian Conflict (LSE blog 16 May 2017)

(2020) Harvey, A Irish, British or both? (forthcoming in the journal of Immigration, Asylum and Nationality law

(2013) 'The UK's new statelessness determination procedure in context' Harvey, A [2013] Vol. 27, No. 4 IANL 294-314

(2012) The use of language analysis in asylum decision-making in the UK - a discussion Craig, S [2012] Vol 26 IANL. 255

(2010) 'Statelessness: the "de facto" statelessness debate' Harvey, A) [2010] Vol. 24, No. 3 IANL, 257-264

*Institute on statelessness and inclusion*

(2019) Statelessness in numbers: 2019. An overview and analysis of global statistics. 26 July 19

(2017) The World's Stateless Children, including Jyothi Kanics Migration Migration, Forced Displacement, and Childhood Statelessness in pp 209- 223 Gábor Gyulai (2017) The Long-Overlooked Mystery of Refugee Children's Nationality at pp 241 -247: <http://children.worldsstateless.org/assets/files/worlds-stateless-full-report.pdf>

(2016) Albarazi, Zahra and Dr. Laura van Waas, Tilburg University & Norwegian Refugee Council (2016ii) Statelessness and Displacement Scoping Paper. Available from:  
<https://www.nrc.no/resources/reports/statelessness-and-displacement/>

(2019) Kanics, J Preventing statelessness: ensuring migrant and refugee children's right to acquire a nationality. *Asyl* 2/19 S. 10.

(2020) McGee, T and Albarazi, Z 'Eight years of Displacement: Syria's Statelessness still Unidentified' (2020) 8(2) *Oxford Monitor of Forced Migration* 39-43

McGee, T, (2014) 'The Stateless Kurds of Syria: Ethnic Identity and National I.D.' (2014) 19 *Tilburg Law Review* 171-81

Sarimento, Dean Ralph A., (2015) The Right to Nationality of Foundlings in International Law , dissertation University of St. La Salle College of Law  
(<https://attyralph.com/2015/12/03/foundlingsnationality/#:~:text=If%20the%20child's%20parentage%20is,in%20which%20it%20was%20found.>)

Valdez Symonds, S and Valdez Symonds, S Reasserting rights to British citizenship through registration, (2020) Vol 34 No 2 *JIANL* 139-157

Van der Burg , Maxime, The right to nationality for unaccompanied minors and separated children aster Thesis International Law and Human Rights, Faculty of Law, Tilburg University, The Netherlands February 2019

Van Waas, L. (2007). The Children of Irregular Migrants: A Stateless Generation? *Netherlands Quarterly of Human Rights*, 25(3), 437–458. <https://doi.org/10.1177/016934410702500303>

Van Waas, L. C. Rijken, M. Gramatikov & D. Brennan (2015)., "A methodology for exploring the interaction between statelessness and human trafficking." Wolf Legal Publishers, 2015.

William Thomas Worster, 'The Obligation to Grant Nationality to Stateless Children Under Treaty Law' (2019) 24(2) Tilburg Law Review pp. 204–216.

### **Other**

#### *Case law*

United Kingdom Upper Tribunal Immigration and Asylum Chamber, case law database

*AS (Guinea) v Secretary of State for the Home Department, United Nations High Commissioner for Refugees intervening* [2018] EWCA Civ 2234

*R(Bradshaw) v Secretary of State for the Home Department* [1994] Imm AR 359

*R(MK) (A Child By Her Litigation Friend CAE v The Secretary of State for the Home Department* [2017] EWHC 1365

#### *Press*

#### *EU*

Legal limbo for EU children and wives of the Caliphate, EU Observer, Paris Sophia Chereici (Sciences Po) 8 June

#### *Denmark*

Danmark stiller krav til statsløse børn I strid med UNHCR's anbefalinger, Information 22 June 2020

Myndighederne har overset et stort antal statsløse børn 19 June 2020

#### *Ireland*

Road to citizenship for non-Irish children 'long, complex and expensive', says report, Irish Times 5 June 2020

#### *Switzerland*

En Suisse, le taux de reconnaissance des apatrides est trop bas selon le HCR qui demande des changements, 25 November 2018, Le Temps Jasmine Caye

#### *UK*

The hostile environment policy meant my daughter was born stateless and the government profited Comment Sayed Ahmed Alwadaei Thursday 21 Nov 2019 Metro UK

#### *Outside Council of Europe*

#### *Canada*

Can DNA tests prove a person's nationality, Sara Abel 22 August 2018 , available at <http://www.citigen.org/2018/08/22/can-dna-tests-prove-a-persons-nationality/>

#### *Chile*

Le Chili régularise ses enfants apatrides 27 May 2017 AFP

### *Colombia*

Venezuelan crisis: Stateless children facing limbo in Colombia: Colombia says it will claim the offspring of refugees born within its borders. But can Bogota afford to be generous? by Sergio Held, 21 Aug 2019, Al Jazeera

### *Gabon*

Enfants apatrides : Plus de 2 000 jugements supplétifs délivrés par le ministère de la justice et de droits humains, Gabonactu.com, 18 December 2018

### *Kyrgyz Republic*

(2020) Kyrgyz Lawyer Wins UN Prize For Battling Statelessness Radio Free Europe 19 October 2020

### *Iraq*

Ces enfants-soldats enrôlés par Daech appelés "bombes à retardement", je les ai rencontrés : Depuis la libération de Mossoul, 17.000 enfants apatrides vivent dans la rue sans protection.

Nous avons gagné la guerre mais que deviendront ces enfants-soldats? Elise Boghossian, Huffington Post 17 August 2019

### *Malaysia*

(2020) Afandai, Dr Nor Hafizah Mohd, Civil Law Department, International Islamic University Malaysia Living in limbo: In Malaysia, adopted children are not guaranteed citizenship, Letter in The Star 2 June 2020

### *Morocco*

(2017) Morocco's stateless children, Olivdr Roy, Euronews, 7 November 2017

### *South Africa*

28 January 2020 The families facing generations of statelessness in South Africa, Jamaine Krige & Yeshiel Panchia for Al Jazeera (fourth part of series)

### *Tadjikistan*

Près de 13 000 enfants seraient sans nationalité au Tadjikistan, Novostasn.org 7 October 2019