

# BRIEFING: Stateless people and people at risk of statelessness forcibly displaced from Ukraine



10 March 2022

## 1. Introduction

The European Network on Statelessness (ENS) is a civil society alliance of over 170 organisations and individuals working to address statelessness in 41 European countries. This briefing explains why statelessness is important in the Ukraine refugee response; how to identify statelessness; access to protection for stateless people from Ukraine; where stateless people can get information; and makes recommendations to ensure routes to protection for stateless people from Ukraine.

Early reports from Ukraine and neighbouring countries suggest that stateless people fleeing the crisis in Ukraine may face additional barriers and differential treatment depending on their residence, nationality, and/or documentation status. It is imperative that European States ensure that this does not stop stateless people and those at risk of statelessness from accessing the same level of protection as currently offered to Ukrainian nationals.

## 2. Statelessness in Ukraine

### *Numbers*

The last census in 2001 recorded **82,550** stateless people in Ukraine. In 2021, UNHCR estimated that **35,875** people in Ukraine were stateless or had 'undetermined nationality'. However, only **6,047** stateless people were *legally* residing in Ukraine at the end of 2021. Approximately 10-20% of the estimated 400,000 Romani people living in Ukraine are stateless or at risk of statelessness. Additionally, 55% of children born in Donetsk and Luhansk and 88% of children born in Crimea were reported to lack Ukrainian birth certificates or personal documents, putting them at risk of statelessness.

### *Who is affected?*

**Roma and other minoritized groups** may be at risk of statelessness due to discrimination and other factors. It is estimated that 10-20% of Romani people in Ukraine lack the civil documentation needed to acquire or confirm their Ukrainian citizenship.

## What is statelessness?

'**Stateless person**' is defined in international law as 'a person not considered as a national by any State under the operation of its law'.

Stateless people may have always lived in the same country, or they may also be migrants or refugees. Being stateless is not the same as being undocumented.

'**At risk of statelessness**' does not have a legal definition but is a term used to refer to people who may not be stateless at present but may become stateless due to circumstances that can cause statelessness. Sometimes it is unclear whether a person is stateless, and statelessness may become evident over time.

'**Undocumented**' people lack any documentary proof of their residence or civil status in a country. Being undocumented is not the same as being stateless, but if a person cannot acquire or has never had any personal documents this may be an indicator that they are stateless or at risk of statelessness.

There are over 12 million stateless people globally, including over half a million in Europe. Most stateless people are stateless in their 'own country' due to discrimination or State succession, for example. Statelessness can also be a cause and consequence of displacement and is often caused by discrimination or gaps in nationality laws. Most stateless people lack access to basic rights, services, and personal documents.

For more information see:  
[www.statelessness.eu](http://www.statelessness.eu) and  
[www.statelessjourneys.org](http://www.statelessjourneys.org)

**Former citizens of the USSR** who were unable to demonstrate permanent residence in Ukraine in 1991 could not acquire Ukrainian nationality. Some, who have been unable to acquire any nationality, have remained stateless due to lack of access to legal aid and other factors, passing their statelessness on to their children.

**Asylum-seekers, refugees, and migrants** (and their children) who were residing in Ukraine and were stateless before leaving their countries of origin (e.g., Palestinians, Kuwaiti Bidoon, Syrian Kurds); or who may have since become stateless due to displacement, discrimination or gaps in nationality laws, State succession, or deprivation of nationality practices.

**People living in non-Government controlled areas and Crimea** and those internally displaced in Ukraine have faced significant barriers to obtaining or renewing personal documents since 2014, leaving an estimated 60,000 children born in these areas without birth certificates and at risk of statelessness.

**Most people affected by statelessness residing in Ukraine will not be able to prove their residence or nationality status due to the nature of statelessness.** Ukraine recently introduced a statelessness determination procedure to determine who is stateless on its territory and grant protection to stateless people. However, the procedure only became operational in May 2021, and by 31 December 2021 only **55 people** had been granted a temporary residence permit through the procedure. More than 800 people to date have applied for recognition as a stateless person under the procedure and have been documented with a certificate of application confirming legal stay on the territory of Ukraine.

More information at: <https://index.statelessness.eu/country/ukraine> and <https://www.unhcr.org/ua/en/stateless-persons>

### 3. Identifying statelessness

Statelessness is not always easy to identify. Stateless people might not have proof of being stateless, might not be sure if they are stateless, or might not be aware that they could be at risk of statelessness. Below is a non-exhaustive list of questions that can help to identify if a person is stateless or at risk of statelessness:

- Does the person or their parents belong to one of the groups disproportionately affected by statelessness in Ukraine (see above)? If they originate from another country, is this a country with a significant stateless population or where women cannot pass on their nationality to their children (if yes, did they inherit their father's nationality, are children in family stateless/at risk)?
- Does the person claim to have one or more nationalities? If not, or they are unsure, try to establish the reasons.
- Does the person have an identity document that is valid or expired? If not, have they ever had one, or attempted to obtain identity documents from another country? If they have documents from another country, does the country that issued their documents still exist? Do the documents indicate that they have the nationality of that country?
- Does the person hold any official document that states that they are stateless or of unknown/undetermined nationality?

- Where was the person (and their parents) born? Was their birth registered and do they have a birth certificate?
- Has the person accessed a statelessness determination procedure in any country? If yes, were they recognised as stateless?
- For more information see this EU Asylum Agency Practical Guide:  
<https://euaa.europa.eu/sites/default/files/publications/Practical-guide-registration-lodging-applications.pdf>

#### 4. Current situation at Ukraine's Western borders<sup>i</sup>

Information from ENS members and partners in Ukraine and neighbouring countries suggests that stateless people and those at risk of statelessness fleeing Ukraine may face additional barriers and differential treatment depending on their residence, nationality, and/or documentation status.

##### *Ukrainian border*

There have been reports of racial discrimination, antigypsyism, and/or differential treatment based on documentation status on the Ukrainian side of the border, which may be preventing some stateless/people at risk of statelessness from leaving Ukraine.

##### *Entry to Western bordering countries*

Hungary, Slovakia, Poland, Romania, and Moldova have stated that they are currently admitting everyone fleeing the war in Ukraine, including stateless people, those at risk of statelessness and/or undocumented people. However, inconsistent practices and racial profiling have been reported at different border crossings (e.g., in Hungary and Poland) with non-Ukrainians facing barriers to accessing the territory, or additional 'secondary screening' procedures, including in detention-like conditions in Poland.

##### *Access to protection*

The EU Temporary Protection Directive (TPD) grants immediate protection in the EU to Ukrainian nationals and those who had international protection in Ukraine prior to 24 February 2022. Stateless persons who can prove they held a permanent residence permit in Ukraine before 24 February and 'cannot safely return to their country or region of origin', are also entitled to temporary protection, but Member States can choose whether to apply the TPD or 'adequate protection under national law'. Member States *may* also extend temporary protection to others, including stateless persons who were 'residing legally' in Ukraine. People granted temporary protection under the TPD are entitled to a residence permit (initially for one year, extendable up to three years unless safe return is possible), access to the labour market, housing, social welfare, medical care, and access to education for children.

EU Member States are not currently required under EU law to extend temporary protection to most stateless people and those at risk of statelessness who are/were living in Ukraine. People without proof of permanent residence or international protection in Ukraine may need to apply for asylum or another form of protection according to the laws of their host country.

For more information see: [https://ec.europa.eu/info/strategy/priorities-2019-2024/stronger-europe-world/eu-solidarity-ukraine/eu-assistance-ukraine/information-people-fleeing-war-ukraine\\_en](https://ec.europa.eu/info/strategy/priorities-2019-2024/stronger-europe-world/eu-solidarity-ukraine/eu-assistance-ukraine/information-people-fleeing-war-ukraine_en)

**Hungary** currently excludes non-refugee stateless persons from any protection following a change implemented on 8 March 2022, which restricts temporary protection to Ukrainian nationals and persons granted an EU-compatible international protection status in Ukraine. This approach does not appear to be in line with EU law. More info: <https://helsinki.hu/en/war-in-ukraine-protection-situation-in-hungary/> and <https://helsinki.hu/en/information-for-people-fleeing-from-ukraine/>

**Slovakia** requires those without documents to apply for asylum or 'temporary refuge' at the asylum department in Humenné where accommodation in a reception centre, food, healthcare, and hygiene supplies are provided. More info: <https://www.ukraineslovakia.sk/>

**Poland** may carry out identity checks on people without documents and may detain them for this purpose. The authorities issue a 15-day permit to those without legal basis for entry. Recent changes may restrict access to protection for some stateless/at risk people who did not have long-term residence in Ukraine. More info: <https://www.gov.pl/web/ua-en/border-crossing>

**Romania** requires those without biometric passports to request asylum or subsidiary protection at the border. They will undergo two interviews with access to an interpreter and legal assistance to determine a form of protection, before being issued temporary ID documents, the right to remain, accommodation, and a daily cash allowance. More info: <https://dopomoha.ro/en> and <https://index.statelessness.eu/resources/quick-guide-refugees-ukraine-moldova-ukrainian>

**Moldova** requires those without documents to request international protection at the border. Healthcare is provided during the procedure, as well as access to an interpreter and legal assistance. More info: <https://dopomoga.gov.md/index.php>

## 5. Onward travel: rights of stateless people in Europe

Almost all European States are Party to the 1954 Convention on the Status of Stateless Persons and so must afford specific rights and protections to stateless people on their territory. Some countries have established a statelessness determination procedure to determine who is due protection under the 1954 Convention and grant protection status or a residence permit to recognised stateless people (other than refugee status or another form of international protection). In other countries, stateless people may access another form of protection or regularise their stay through other avenues. For more details on these rights and how they are implemented in different European countries see: <https://www.statelessness.eu/updates/publications/statelessnessindex-briefing-statelessness-determination-and-protection-europe> and <https://index.statelessness.eu>

Under international law, all European States must ensure that every child acquires a birth certificate, legal identity, and a nationality as soon as possible after birth. For more information see: <https://www.statelessness.eu/updates/publication/no-child-should-be-stateless-ensuring-right-nationality-children-migration>

## 6. Recommendations

ENS makes the following recommendations to the EU, European States, international agencies, NGOs, and all those involved in the refugee response to ensure that stateless people and those at risk of statelessness from Ukraine can access protection in line with international law:

- I. The EU should extend eligibility for temporary protection to all stateless persons and persons at risk of statelessness who are/were living in Ukraine, regardless of documentation or residence status. EU Member States should use their discretion under the TPD to extend Temporary Protection to all stateless persons and those at risk of statelessness regardless of prior residence status in Ukraine and/or ensure access to equivalent forms of protection under national law.
- II. European States should ensure that lack of identity documents or other documentation does not prevent stateless people and people at risk of statelessness from accessing international protection or other forms of protection under national law.
- III. European States should ensure access to protection and rights for stateless people on their territory in line with their obligations under the UN Convention Relating to the Status of Stateless Persons 1954, and implement safeguards to prevent arbitrary detention.
- IV. Refugee response actors should take steps to identify and record statelessness as accurately as possible to ensure access to adequate protection, and assistance and services, including legal advice, and improve the availability of disaggregated data, using standardised guidelines and assessment tools at registration points, in protection procedures, and during legal counselling.
- V. Refugee response actors should identify and monitor statelessness and risk of statelessness among unaccompanied and separated children, as well as children born in transit and host countries, to ensure their right to a birth certificate, legal identity, and nationality is guaranteed.

### Where to find more information and advice:

European Network on Statelessness:

<https://www.statelessness.eu/statelessness-ukraine-crisis>

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<sup>i</sup> Information provided by ENS members and partners working in Ukraine, Hungary, Moldova, Poland, Romania, and Slovakia, and accurate as of 10 March 2022. This includes Right2Protection Ukraine, Hungarian Helsinki Committee, Law Center of Advocates, Halina Nieć Legal Aid Center (HNLAC), JRS Romania and Human Rights League Slovakia and Aleksejs Ivashuk.



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

#StatelessJourneys is an initiative designed to highlight gaps, identify solutions, and deliver evidence-based advocacy and tools to secure the protection of stateless refugees and migrants, and to prevent new cases of statelessness arising in Europe.

For more information about the issue and the initiative, please visit:  
<https://statelessjourneys.org>

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The logo for the Oak Foundation, featuring a stylized globe icon to the left of the word 'OAK' in a large, blue, serif font, with the word 'FOUNDATION' in a smaller, blue, sans-serif font below it.

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