

## United Kingdom

Joint Submission to the Human Rights Council at the 41<sup>st</sup> Session of the Universal Periodic Review

### Summary

The United Kingdom<sup>1</sup> has acceded to both the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, but it maintains several reservations to these treaties, neither convention has been fully incorporated into domestic law, and it is not a party to core regional instruments on statelessness. There are relatively few sources of accurate data on the stateless population in the UK, but all data indicates that statelessness occurs predominantly in a migratory context. UNHCR reported 5,177 stateless persons in the UK at the end of 2021.

### Statelessness Determination and Protection

In 2013, the UK introduced a procedure through which some persons may be granted a residence permit in the UK on the grounds of statelessness. Despite the introduction of the statelessness determination procedure (SDP), there remain significant gaps in law, policy and practice that result in the failure to respect, protect and fulfil the rights of all stateless persons. The definition of a stateless person in the UK Immigration Rules contains exclusion criteria that go beyond the definition under the 1954 Convention. UNHCR has reported concerns about the assessment of applications and decision-making, and there are shortcomings in the procedural safeguards afforded to applicants, particularly with respect to the absence of appeal rights, access to legal aid, and access to social and economic rights. It also leads to futile removal efforts and lengthy immigration detention, with applicants under the SDP being detained because they do not have the right to stay in the UK pending their application. At least 229 stateless people entered immigration detention in 2020, and likely more.

### Children's right to a nationality

Research identified a nexus between (risk of) statelessness and children affected by domestic abuse, trafficking, and other forms of exploitation, as well as Romani children, due to the inability to access proof of identity and/or nationality. Nationality status is not recorded on birth registration documents across the UK (neither of the parents nor the child) and there is no formal, standalone procedure for determining nationality or statelessness. Although some safeguards are in place in British nationality law to prevent statelessness, there are significant barriers in accessing nationality, including prohibitively high fees and limited access to legal aid. In 2022, the UK Parliament passed the Nationality and Borders Act (NBA), which restricts the existing safeguard to prevent statelessness. It requires that the Government be 'satisfied that the person is unable to acquire another nationality' for a child born in the UK who would otherwise be stateless to acquire British citizenship. There are serious concerns that this amendment will risk increasing statelessness in the UK, and will unnecessarily leave more children in limbo, exposed to the detrimental impacts of growing up without a nationality, by limiting stateless children's ability to register as British citizens.

### Deprivation of nationality in the national security context

The British Nationality Act 1981 and its application in practice fail to comply with international human rights law, including because there is no safeguard to prevent statelessness for naturalised British citizens and there are limited procedural safeguards (e.g. no judicial oversight, discretionary decisions and no right to a fair trial). The use of nationality deprivation powers on national security grounds has increased. The NBA also contains provisions expanding the power to deprive people of nationality without notice.

### Proposed recommendations:

- i. Fully incorporate and comply with the 1954 Convention, including recognising 'statelessness status' as a protection status, ensuring that its definition of 'stateless person' is fully consistent with the 1954 Convention, and eliminating provisions that exclude stateless persons from being recognised as stateless.
- ii. Introduce adequate procedural safeguards during the statelessness determination procedure, including ensuring an adequate burden and standard of proof, access to legal aid, and a comprehensive right of appeal to an independent tribunal.
- iv. Take concrete steps to protect stateless persons from arbitrary detention.
- v. Protect the right to acquire British citizenship of all children born in the UK who would otherwise be stateless, ensuring they acquire British citizenship as soon as possible after birth.
- vi. Ensure that stateless persons have access to adequate legal advice and (free) legal aid in British nationality applications in all UK jurisdictions.
- ix. Protect everyone's right to a nationality, and ensure that law, policy and practice is in line with the UK's international obligations, including the prohibition of arbitrary and discriminatory deprivation of nationality, the duty to avoid statelessness, respect for the right to a fair trial, adherence to adequate procedural safeguards, and ending the practice of depriving people of nationality when they are abroad.
- x. Take concrete steps to improve the recording of statelessness.

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<sup>1</sup> For a more detailed overview and references, see the full joint submission at: <https://www.statelessness.eu/updates/publications/joint-submission-human-rights-council-41st-session-universal-periodic-review>