

TOOLKIT TO IDENTIFY AND ADDRESS STATELESSNESS



TÜRKİYE

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Refugee
Rights
Türkiye



European
Network on
Statelessness

TOOLKIT TO IDENTIFY AND ADDRESS STATELESSNESS IN TÜRKİYE

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LIST OF ABBREVIATIONS

1951 Refugee Convention	1951 Convention relating to the Status of Refugees
1954 Convention	1954 Convention Relating to the Status of Stateless Persons
1961 Convention	1961 Convention on the Reduction of Statelessness
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
ICCPR	International Covenant for Civil and Political Rights
ICEDAW	International Convention on the Elimination of all forms of Discrimination Against Women
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICPPED	International Convention for the Protection of All Persons from Enforced Disappearance
SDP	Statelessness determination procedure
UNHCR	United Nations High Commissioner for Refugees
LFIP	Law on Foreigners and International Protection
RFIP	Implementing Regulation of the Law on Foreigners and International Protection
TPR	Temporary Protection Regulation
TCL	Turkish Citizenship Law
RTCL	Implementing Regulation of the Turkish Citizenship Law
PSL	Population Services Law
RPSL	Implementing Regulation of the Population Services Law
PMM	Presidency of Migration Management
PDMM	Provincial Directorates of Migration Management

1. TERMINOLOGY

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

Citizen/national: these terms are used to mean the same thing, i.e. a legal bond between a person and a state which usually allows an unrestricted right of residence on the territory, full civil and political rights, access to national identity and travel documents, and the ability to freely leave and return to the territory.

Türkiye's national legislation defines a Turkish citizen as 'a person who is bound to the State of the Republic of Türkiye by ties of citizenship' (Article 3 (1) (ç) of the TCL).

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

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

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

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

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

Asylum-seeker: refers to a person who is requesting asylum or another form of international protection, usually because they fear persecution or serious harm. Many asylum-seekers are refugees but have not yet been recognised as such. The term "asylum seeker" is not legally defined in Türkiye's national legislation. However, within the context of Türkiye's migration literature, it is commonly used, without formal legal meaning, to describe foreigners seeking protection under the country's existing protection regimes.

¹ See UNHCR [Handbook on Protection of Stateless Persons](#) (2014), Para 139 (hereinafter 'UNHCR's Statelessness Handbook').

Refugee: under the 1951 Convention relating to the Status of Refugees, to which Türkiye is party, a refugee is a person who has a *'well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.'*

A person *is* a refugee if they meet this definition (or if they are a Palestinian in certain circumstances)² whether or not the person has been officially recognised as a refugee. Regional or national legislation may also have different definitions and protection frameworks that are wider than the international definition of the 1951 Convention.

Türkiye maintains the geographical limitation established upon its accession to the 1951 Refugee Convention, applying it solely to refugees from European countries, specifically those within the Council of Europe. Under Turkish legislation, a 'refugee' is defined as an individual who, due to events in European countries and a well-founded fear of persecution based on race, religion, nationality, membership in a particular social group, or political opinion, is outside their country of citizenship and is either unable or unwilling to seek protection from that country. This definition also encompasses stateless individuals who, due to similar events, cannot or will not return to their former habitual residence (Article 61 of the LFIP). See also the definition of 'Conditional refugee'.

Conditional refugee: Türkiye's adherence to the geographical limitation within the 1951 Refugee Convention (see definition of 'Refugee') gives rise to a 'conditional refugee' status as stipulated by law. This status pertains to individuals who, due to events occurring outside European countries (i.e. Member States of the Council of Europe) and stemming from a well-founded fear of persecution based on race, religion, nationality, membership of a particular social group, or political opinion, find themselves outside their country of nationality and are unable or unwilling to seek protection from it. It also includes stateless individuals who, for similar reasons, cannot or will not return to their former habitual residence. Conditional refugees are permitted temporary residence in Türkiye until they are resettled in a third country (Article 62 of the LFIP).

Subsidiary protection: According to Türkiye's national law, individuals, including stateless persons, who do not qualify as refugees or conditional refugees shall nevertheless be granted subsidiary protection upon status determination, if their return to their country of origin or former habitual residence would lead to: (a) imposition of the death penalty; (b) torture, or inhumane or degrading treatment or punishment; (c) serious threats due to indiscriminate violence in situations of international or nationwide armed conflict (Article 63 of the LFIP). Subsidiary protection aligns with the universal principle of non-refoulement.

International Protection: Turkish legislation recognises three categories of statuses, including 'refugee,' 'conditional refugee,' and 'subsidiary protection,' collectively referred to as international protection. Türkiye adopted its first-ever legislation to govern the international protection regime in 2013 through LFIP.

² Pursuant to Article 1D of the Refugee Convention and other international law and UN resolutions. See [Palestinians and the Search for Protection as Refugees and Stateless Persons](#) (ENS & BADIL, 2022).

International Protection Applicant: Under Türkiye's national law, this term means a person who made an international protection claim that is still pending a final decision (Article 3 (1) (d) of the LFIP).

Temporary Protection: Türkiye implements a temporary protection regime, providing group-based protection to those fleeing Syria, including Syrian nationals, as well as refugees and stateless persons arriving in Türkiye from Syria. Türkiye's temporary protection regime is governed by the Temporary Protection Regulation (TPR), which was enacted in 2014 according to Article 91 of the LFIP.

Stateless person: According to Article 1 of the 1954 Convention relating to the Status of Stateless Persons, to which Türkiye is a party, a stateless person is a person 'who is not considered as a national by any State under the operation of its law.' A person who meets this definition *is* stateless, whether or not their statelessness has been officially recognised.³ In Türkiye's domestic law, a stateless person is defined as 'someone who does not hold the nationality of any State and is considered as foreigner' (Article 3 (1) (ş) of the LFIP).

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

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

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

Presidency of Migration Management: Functioning as the apex governmental body overseeing all aspects of migration affairs in Türkiye, operating under the auspices of the Ministry of Interior (Mol), the Presidency of Migration Management (PMM) carries out a diverse range of responsibilities, including acting as the central authority for determining statelessness. Initially established as the Directorate General of Migration Management (DGMM) in 2013, the PMM attained presidential status in 2021 through a presidential decree.⁴

Provincial Directorates of Migration Management: Provincial Directorates of Migration Management (PDMM), situated in every city nationwide, play a role in administering migration-related matters at the local level. These directorates serve as the initial point of contact for

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

⁴ Presidential Decree No. 85 issued on 29 October 2021.

statelessness claims, forwarding them to the Presidency of Migration Management for final adjudication and decision-making processes.

2. INTRODUCTION TO STATELESSNESS IN TÜRKİYE

GENERAL OVERVIEW

In Türkiye, the phenomenon of statelessness typically arises within migratory contexts rather than due to a notable presence of *in situ* stateless populations. Positioned at the nexus of major global migration routes, Türkiye holds a strategic position as both a transit and destination country, hosting the largest number of refugees worldwide, with over three million registered individuals.⁵ Refugees and migrants arriving in Türkiye originate from regions historically affected by statelessness, predominantly from its war-torn neighbour Syria, alongside others arriving from Afghanistan, Iran, and Iraq.

STATELESS POPULATION DATA

According to the most recent official data on the foreign population with registered addresses, jointly published by the Turkish Statistical Institute and the Directorate General of Civil Registration and Citizenship Affairs, the year 2023 recorded 415 stateless individuals (254 males and 161 females) in Türkiye.⁶ In the latest 2022 International Migration Statistics jointly compiled by the Turkish Statistical Institute and the PMM, it was reported that 109 stateless individuals (64 males and 45 females) migrated into Türkiye.⁷ Both datasets classify stateless individuals within the group of foreigners with a valid address declaration. This category includes individuals with either a residence or work permit, as well as those who have applied for or currently hold a protection status equivalent to a residence permit, such as international protection.

However, these datasets fall short of presenting a comprehensive portrayal of statelessness in Türkiye due to several limitations. Firstly, they include a group of people labelled as having an “unknown nationality,” leading to potential overlaps, as some of these individuals may actually be stateless. The 2023 data on the foreign population with address registration indicates 100 individuals with an “unknown nationality,” while the 2022 data on international migration reports 133 individuals falling into the same category. Secondly, these datasets categorise Palestinians separately, despite their probable higher representation among stateless individuals. The 2023 data on the foreign population with address registration shows 21,612 Palestinians, whereas the 2022 international migration statistics recorded 5,581 Palestinians immigrating to Türkiye.

⁵ According to the latest data from PMM, as of March 21, 2024, there are 3,130,768 Syrian temporary protection beneficiaries registered in Türkiye. Additionally, PMM recorded yearly 19,107 international protection applications in Türkiye by the end of 2023. According to UNHCR's 2023 mid-year Trends report, the total number of international protection applicants and status holders in Türkiye is approximately 300,000. Please refer to the following sources for more information: Syrian temporary protection beneficiaries: [Link](#); international protection applications: [Link](#); UNHCR 2023 mid-year Trends report: [Link](#).

⁶ The data source is available at [Link](#).

⁷ The data source is accessible at [Link](#).

Furthermore, the datasets exclude Syrian temporary protection beneficiaries in Türkiye. Türkiye's temporary protection regime applies not only to Syrian nationals but also to refugees, as well as stateless individuals fleeing Syria. While the PMM provides regular statistics on the total number of temporary protection beneficiaries, which stood at 3,130,768 as of March 21, 2024,⁸ these figures do not distinguish between Syrian nationals, refugees, or stateless individuals from Syria. As a result, despite the historical presence of a stateless population in Syria,⁹ it remains unclear how many of these stateless individuals currently reside in Türkiye under temporary protection. Similarly, although individuals under international protection are included in the data, due to the lack of disaggregation for stateless individuals among them, there are no specific figures available for the number of stateless refugees and/or asylum-seekers.

Moreover, there is no available data on the number of applications, approvals, or rejections within the Stateless Determination Procedure. Additionally, no mapping studies have been conducted to identify the demographics of the stateless population in the country.

STATELESSNESS DETERMINATION PROCEDURE AND STATUS

Türkiye's Law on Foreigners and International Protection (LFIP) establishes a specialised Stateless Determination Procedure (SDP) aimed at addressing the legal status and protection of stateless individuals (Articles 50-51 of LFIP). The SDP provides a systematic framework for assessing and recognising statelessness, ensuring that individuals without a nationality receive the necessary legal recognition and protection.

Additionally, the Implementing Regulation of LFIP (RFIP) offers guidelines regarding the scope and implementation of the SDP (Articles 47-50 of RFIP). It outlines the procedures and criteria for identifying statelessness, delineating the necessary steps that stateless individuals must adhere to in order to secure official recognition in Türkiye.

The LFIP, along with the RFIP, establish a robust legal structure aimed at safeguarding the rights and status of stateless persons within Türkiye's borders. The SDP aims to ensure that stateless individuals are recognised and protected under Türkiye's laws. The SDP follows a systematic process to assess and acknowledge statelessness. This procedure is crucial in providing a clear pathway for stateless people to obtain official recognition and access essential rights within Türkiye.

The SDP is specifically designed for individuals with a migratory background who are in need of stateless person status through formal determination mechanisms. This procedure operates within Türkiye's administrative structure and is managed by the migration management authorities. When individuals submit their statelessness claims, these are initially directed to the Provincial Directorates of Migration Management. From there, the claims are forwarded to the central statelessness determination body, the PMM.

If a stateless refugee is granted international protection status, they cannot simultaneously apply for stateless person status. Individuals should decide for which status they want to apply. People originating from Syria, including stateless people, are only eligible for temporary

⁸ The data source can be found at [Link](#).

⁹ The toolkit 'Understanding statelessness in the Syria refugee context' by the Norwegian Refugee Council and Institute on Statelessness and Inclusion is available at [Link](#).

protection and not international protection, but they can apply for stateless person status or other residence permits.

Through the SDP, stateless individuals in Türkiye can obtain official recognition of their statelessness and receive the Stateless Person Identification Card. This identification document serves as confirmation of their statelessness status and enables them to access essential services and rights within the country.

KEY STAKEHOLDER COLLABORATIONS

UNHCR Türkiye collaborates with the PMM to improve the identification of statelessness and safeguard the rights of stateless individuals, aligning with international standards and obligations. As part of this collaboration, initiatives have been launched to enhance the capacity of migration management authorities, ensuring they possess the requisite knowledge and skills for the effective implementation of the SDP.¹⁰

In furtherance of these efforts, comprehensive Standard Operating Procedures (SOPs) have been jointly developed by UNHCR and the PMM, specifically addressing the determination of statelessness.¹¹ These procedural guidelines are crucial tools for authorities tasked with determining the status of stateless individuals, providing a structured framework to help ensure consistency and adherence to international standards. They serve as important guides for decision-makers on the intricate processes, responsibilities, and entitlements inherent in statelessness determination. Despite their significance, it is worth noting that these SOPs are not readily accessible to the public.

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

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

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

Türkiye became a party to the 1954 Convention relating to the Status of Stateless Persons by accession in 2015 without making any reservations. However, it has not yet become a signatory to the 1961 Convention on the Reduction of Statelessness.

Under Türkiye's national law, a stateless person is defined as '*someone who does not hold the nationality of any state and is considered as foreigner*' (Article 3 (1) (ş) of LFIP). However, this definition overlooks the crucial element of "under the operation of its law" found in the 1954

¹⁰ For more information on the capacity strengthening efforts of UNHCR Türkiye and PMM, please visit [Link](#).

¹¹ For details on the development of Standard Operating Procedures (SOPs), please refer to [Link](#).

Convention's definition. This requirement necessitates that an individual's claim to statelessness be evaluated not only based on the legal framework of a particular country but also on its implementation by the authorities. Consequently, while Türkiye's national law contains a definition of a stateless person, it fails to incorporate the vital aspect of how laws are enforced in the relevant countries. Despite the existence of this narrower definition in its domestic law, Türkiye is bound by the definition outlined in the 1954 Convention, as it is regarded as part of international customary law.

Türkiye is obligated under various UN and regional treaties to uphold the rights of stateless persons. These encompass:

- The 1954 Convention relating to the Status of Stateless Persons
- The 1950 European Convention on Human Rights (ECHR)
- The 1989 Convention on the Rights of the Child (CRC)
- The 1966 International Covenant on Civil and Political Rights (ICCPR)
- The 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR)
- The 1979 Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)
- The 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT)
- The 1966 International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
- The 1990 International Convention on the Protection of the Rights of all Migrant Workers (ICRMW)
- The 2006 Convention on the Rights of Persons with Disabilities (CRPD)

As per the Turkish Constitution, international treaties that have been duly ratified are granted the force of law under Article 90 (5). This constitutional provision establishes a legal framework that obligates Turkish authorities to align their actions with the standards and obligations set forth in the international treaties to which Türkiye is a party. Consequently, Turkish authorities are legally bound to uphold and implement the provisions related to the protection of stateless individuals and the reduction of statelessness as stipulated in these international treaties.

Unaddressed, statelessness is a cause of denial of access to fundamental rights and opportunities. It often means that people cannot reach their full potential because they are prohibited from working, unable to access education and/or healthcare, and unable to participate fully in society or democratic processes. They are often forced to live in poverty and may be subjected to unlawful detention, exploitation, and discrimination. These circumstances and other experiences may have severe impacts on their mental health and their overall wellbeing. Finding solutions for stateless people brings many benefits for individuals and societies. In addition to protecting fundamental human rights, the recognition and resolution of statelessness contributes to social and economic development.¹²

¹² See UN resolution of 12 July 2023 recognising some of the many complexities of statelessness, the harm it causes, and calling for states to take action to fulfil the right to a nationality (The right to a nationality: equality in nationality rights in law and in practice, A/HRC/53/L.28/Rev.1).

In Türkiye, statelessness mainly occurs in migratory contexts and broadly arise from three main circumstances:

1. In recent years, Türkiye has emerged as a crucial transit and destination country for forced migration flows originating from countries with stateless populations. While the largest number of individuals stem from the ongoing crisis in Syria, considerable numbers also arrive from Afghanistan, Iran, and Iraq. Among those arriving in Türkiye, there are estimated to be stateless individuals who have fled persecution and sought asylum in the country.
2. In addition to these large-scale flows, there are also isolated instances of stateless individuals from countries not usually associated with high numbers of refugees who have also sought asylum in Türkiye.
3. Some individuals have been rendered stateless while seeking asylum in Türkiye, either due to the revocation of their nationality or other circumstances.

Stateless individuals in Türkiye face several risks and challenges, including:

- **Lack of Awareness:** There is a notable absence of detailed and properly disseminated information about the SDP. This lack of awareness affects both stateless individuals and relevant stakeholders, leaving them unaware of the options and processes available for determination of statelessness. Without clear guidance, stateless individuals often struggle to navigate the complexities of the SDP and access the necessary resources.
- **Lack of Residence Status:** Many stateless persons in Türkiye lack official recognition and residence status, which has far-reaching implications. This absence of residence status makes it difficult for them to access essential services such as healthcare, education, and employment. They often find themselves excluded from social protection programmes and facing barriers to realising their basic rights.
- **Challenges in Obtaining Documentation:** Stateless individuals encounter significant challenges in obtaining the necessary identification documents, such as birth certificates or passports. The lack of recognised documentation creates substantial obstacles in proving their identity and securing residence status. This, in turn, restricts their ability to access services and participate fully in society.
- **Barriers to Access to Services:** Unrecognised stateless people face numerous barriers in accessing essential rights and services. These include difficulties in enrolling in schools, obtaining healthcare, or opening bank accounts. The absence of formal recognition of their statelessness and residence status often leads to exclusion from basic societal functions.
- **Vulnerability to Exploitation:** Stateless individuals, particularly those who are unrecognised, are highly marginalised and vulnerable to exploitation. They are at heightened risk of labour exploitation, human trafficking, and other forms of abuse. Due to their lack of legal protection, they may also be hesitant to report abuse or seek help, further exacerbating their vulnerability.
- **Risk of Detention and Deportation:** Stateless individuals in Türkiye are at significant risk of detention and deportation, especially if they are unable to regularise their residence

status. Detention facilities often lack appropriate conditions, exposing them to further vulnerabilities and violations of their rights.

For more information, see:

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

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

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

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

4. IDENTIFYING STATELESSNESS

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

- Discrimination based on sex, sexual or gender identity, ethnicity, religion, or other factors
- Gaps or restrictions in nationality laws, often but not necessarily linked to state succession
- Conflicts of nationality laws between various countries
- Issues relating to state sovereignty and incomplete recognition of statehood
- Obstacles in civil registration procedures and practices, particularly birth registration
- Arbitrary deprivation of nationality, including for political reasons¹³
- Armed conflict (inability to access birth registration or documents due to conflict, etc)
- Climate change resulting in forced displacement and/or destruction of states¹⁴
- Other laws, policies, practices, or circumstances not listed above, especially when adequate safeguards to prevent statelessness are not in place

Some States cause statelessness, or cause it to continue, through ostensibly neutral or in some cases allegedly positive laws and policies that result in statelessness and/or the failure to protect stateless people. For example, a nationality law that restricts nationality to people who were resident in a country at a particular time is neutral on its face, but it excludes people who have a strong connection to that country but who were not resident at the requisite time.¹⁵ It is important to be aware that States are sometimes hostile towards stateless people,

¹³ Deprivation of nationality is often used as a punishment for human rights advocacy or opposition to government oppression, and increasingly in Europe as a counter-terrorism measure, even when it leads to statelessness. See e.g. SALAM DHR, ISI & Hawiati, [Arbitrary Revocation of Nationality in Bahrain: a Tool of Oppression](#) (2021); ENS, [Statelessness Index Thematic Briefing: Deprivation of nationality and the prevention of statelessness in Europe](#) (2021).

¹⁴ See e.g. Michelle Foster, Nicola Hard, Hélène Lambert and Jane McAdam, [Preventing Statelessness and Nationality Loss in the Context of Climate Change](#) (ENS, 2022).

¹⁵ See e.g. Neha Jain, [Manufacturing Statelessness](#), American journal of international law, 2022, Vol. 116, No. 2, 237-288; and see [R \(on the application of Marouf\) v Secretary of State for the Home Department](#) [2023] UKSC 23 (finding the UK's Syrian resettlement scheme's exclusion of Palestinians living in UNRWA areas of operation is lawful).

deny that state action or inaction has caused statelessness, or are unaware of the ways in which laws and policies result in statelessness or cause hardship for stateless people.

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

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

HOW TO IDENTIFY STATELESSNESS

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

In Türkiye, statelessness can be identified in various procedures. Adequate training is vital for all those who work in procedures or institutions in which statelessness can be identified. Each procedure plays a crucial role in recognising and addressing the status of stateless individuals:

- **Statelessness determination procedures:** The SDP is the primary legal mechanism in Türkiye to identify and determine statelessness. It is specifically designed to identify stateless individuals with a migratory background, distinguishing them from non-migratory profiles. This process involves a thorough assessment of an individual's background, documentation, and circumstances to determine if they meet the criteria for stateless person status.
- **Nationality determination and naturalisation procedures:** Türkiye's citizenship law provides legal safeguards to reduce and prevent statelessness. One of these measures includes granting Turkish nationality to otherwise stateless children born in the country. To establish a child's statelessness, authorities should carefully examine the circumstances and documentation provided to determine eligibility for nationality.
- **Birth registration procedures:** During the birth registration process in Türkiye, statelessness can be identified through the required documents, which include identity information. Officials can examine these documents closely to detect any indication of the child's statelessness, such as parents' lack of a nationality, the absence of a hospital-issued birth report, or a mother's nationality being that of a country with gender discrimination in its nationality laws preventing her from conferring her nationality to her child.

- **Asylum and protection screening procedures:** While there is no specific screening mechanism for statelessness during asylum procedures, authorities can identify statelessness through a detailed examination of the asylum seeker's reasons for seeking protection. If the reasons include persecution due to statelessness or the inability to return to their country of habitual residence, this can indicate a statelessness situation.
- **International protection status determination procedures:** Türkiye acknowledges statelessness as a valid reason for granting international protection status. Asylum seekers' well-founded fear of persecution due to statelessness can be carefully assessed during the status determination process, which includes gathering information on their country of origin and circumstances leading to their statelessness.
- **Immigration detention and removal procedures:** Statelessness can be a relevant factor in immigration detention and removal procedures in Türkiye. While not explicitly listed as a reason for release in Turkish law, authorities should consider an individual's statelessness when assessing the need for continued pre-removal detention in order to prevent arbitrariness. A comprehensive examination of the individual's situation, including their lack of nationality, may inform decisions regarding detention and return.
- **Identification process of unaccompanied and separated children:** Turkish legislation mandates the identification of unaccompanied and separated children to ensure their safety and access to child protection services. During this process, if officials carefully evaluate the child's background and documentation, they can realise that the child lacks nationality or relevant documentation, which raises flags for potential statelessness.
- **Appeal and judicial review procedures relating to any of the above:** During these processes, it is possible to carry out a comprehensive case evaluation to gather relevant information to identify whether the individuals in question are stateless. By carefully examining their circumstances, such as documentation and background, the identification of statelessness can inform subsequent legal steps.

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

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

This list is not exhaustive. At the identification stage, what is most important is to at least record any initial indications of statelessness. An individual should then be informed about and referred to the statelessness determination procedure. Whilst some stateless people may not be aware that they are stateless, others will have known for a long time but may have never been formally recognised as stateless. Many stateless people may find it difficult to talk about their lack of nationality and other circumstances, especially if they have never had documentation and/or have had experiences of being disbelieved by authorities. The aim of the below questions should not be to give an individual the impression that the interviewer is trying to determine whether they are telling the truth about their statelessness or lack of documentation, but rather to assist in identifying whether the person is stateless and where the proof of their statelessness may lie. Many stateless people may have suffered traumatic experiences in their home countries, during journeys, or in host countries. This should be considered when conducting interviews with people who are or may be stateless; trauma-informed interviewing techniques should be used whenever possible.¹⁶

¹⁶ For example, see: [Trauma Informed Interviewing Techniques](#): A toolkit for attorneys and other professionals working with immigrant children (Stanford Center for Health Education & University of Texas at Rio Grande Valley); and [Disclosing and identifying international protection needs in the Middle East and North Africa](#): Training Module, Part 3: Trauma-informed, victim-centered approaches (Center for Human Rights, Gender and Migration & MENA Community Protection Network (supported by UNHCR)).

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

Mohammad is a 38-year-old man who was born into a marginalised community that faced systematic denial of their fundamental human rights in his home country. Growing up, he encountered a harsh reality where access to education, healthcare, and employment was denied to him, and violence at the hands of the authorities led to the tragic loss of his mother and siblings when their family home was set on fire.

Seeking safety and a chance for a better life, Mohammad fled to another country. However, his journey revealed a deeper truth about his legal status. He had always believed that he held a national identification card. However, the sole function of this official document, issued by the national authorities, was to restrict his community's rights to internal travel within their homeland's borders.

Upon arriving in a host country, Mohammad found himself living in limbo without any formal legal status, unaware of potential avenues to regularise his stay in the country. It was not until he discovered an NGO offering legal counselling and assistance to refugees and vulnerable migrants that he saw a glimmer of hope.

Seeking support from their helpdesk, Mohammad was put in touch with a lawyer who helped him to find a way forward. With the lawyer's guidance, he realised that he could pursue a statelessness determination application. Encouraged by this newfound knowledge, he took the necessary steps to lodge his application, and was finally able to assert his rights and identity.

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

Question	Information to look out for
Where and when was the person born?	
Does the person come from a country at high risk of statelessness, affected by state succession or a land dispute?	In particular, but not limited to: Syria; Iraq; Afghanistan; Palestine; Saudi Arabia; Cambodia; Western Sahara; Kuwait; Uzbekistan; Burma; Bangladesh; Ivory Coast; Thailand; Ukraine; Russia.
Does the person belong to a specific group which is known to be affected by statelessness?	For example: Rohingya, Roma, Kurdish, Palestinian, Sahrawi, Kuwaiti Bidoon.
Was their birth registered and do they have a birth certificate? If so, is this proof of nationality?	If not, risk of statelessness.
Does the person come from a country where birth registration is not routine or is complicated?	If yes, risk of statelessness.
Where has the person lived since birth? Of what country does the person consider themselves to be a citizen (if any)?	
Do the authorities of that country or any other country consider the person to be a citizen?	

Has the person ever applied for nationality in any country? What was the outcome?	
Does the person have proof of having a nationality, such as a certificate of citizenship, a valid national identity card or a passport? If not, why not?	
Does the person come from a country where women do not have the right to pass their nationality on to their children in the same way as men? If yes, have they inherited their father's nationality?	See a list of countries whose nationality laws discriminate against women. If the person did not acquire nationality from the father (e.g. because he is stateless or unknown), this is an indicator the person may be stateless.
Was the person able to go to school, work or register their marriage or the birth of their children in their country of origin or usual place of residence?	If not, this may indicate a risk of statelessness.
Does the person have, or did they have, one or several nationalities?	If not, risk of statelessness.
What nationality(ies) did the person's parents and grandparents have? Were there barriers to inheriting these nationalities?	Consider if they belonged to any groups affected by statelessness, or if there were barriers to proving family links.
Have any family members been deprived of their nationality, for example for political reasons? If yes, was the person's nationality affected?	
Does the person have a valid or expired identity document? If not, have they tried to obtain identity documents from another country?	If the person has tried to obtain identity documents and was refused or a response was delayed, risk of statelessness.
Has the person faced any challenges in obtaining or renewing their passport or national identity card?	
Has the person ever been excluded from access to certain rights or services on the grounds of their nationality (or lack of nationality)?	
Has the person started procedures with the relevant authorities to obtain identity documents? Do they have evidence of these steps? When did they start these steps? Have they had a reply from the authorities? If not, have they tried again? How many times? Are they in fear of persecution if they return? Have they submitted an asylum request?	Applicants should enclose evidence that any State with which they have links does not consider them to be its citizen. For more information on taking into account the fear of persecution and the procedure for determining statelessness, see Section 5.
What nationality was registered by the authorities when the person arrived in Türkiye?	Officials often record a presumed nationality, an adequate assessment of whether the person has the nationality recorded should always be conducted.

Did the person have access to a statelessness determination procedure in another country? If yes, what was the relevant authority's decision?	
Does the person know that it is necessary to register their child with civil authorities and the conditions for birth registration? Can the mother pass on her nationality to the child? Did she encounter problems registering the child's birth (in Türkiye and with the authorities of her country)?	Risk of statelessness for children of beneficiaries of international protection.
Has the person been repeatedly detained in a host country, but no embassy acknowledges the person as a national?	If yes, risk of statelessness.
In the case of a pregnant woman, is she concerned about the nationality of her unborn child? In the case of a young mother, has she faced problems registering her child? On the child's birth certificate, are both parents included, or just one of them?	Risk of statelessness if the child is unable to acquire the mother's nationality at birth.
Was the child born abroad to same-sex parents? Is there discrimination in the country of origin which would give rise to the withdrawal or denial of nationality?	If the country(ies) of the parents' nationality prohibits same-sex marriage and partnerships, it may refuse to transcribe the birth certificate or issue an identity document. If that occurs, risk of statelessness.

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

Additional information about the law, policy, and practice on statelessness in Türkiye is available in the [Statelessness Index](#), while jurisprudence from courts in other countries is available in the [Statelessness Case Law Database](#).

GAPS IN BIRTH REGISTRATION PROCEDURES AND NATIONALITY LAWS

In Türkiye, there are significant challenges with birth registration procedures and gaps in nationality laws that place certain children at risk of statelessness. This issue is particularly worrisome for populations in vulnerable circumstances such as Syrian temporary protection beneficiaries, potentially leaving their children without a nationality. Given the large Syrian temporary protection beneficiary population in the country, the risk of statelessness among their children is a key focus of ongoing discussions.

The Turkish Citizenship Law (TCL) does provide a means to prevent childhood statelessness by granting Turkish nationality to children born in Türkiye who would otherwise be stateless. However, this process involves an application and the submission of specific documents, notably the birth certificate. For many Syrian families residing in Türkiye, this seemingly straightforward procedure poses significant challenges.

Under the Population Services Law (PSL), foreign parents, regardless of their legal status, are required to register their children's births within 30 days of the birth date. This registration process involves obtaining a birth report from a hospital or through official declaration, which leads to the issuance of a birth certificate. However, Syrian families face numerous obstacles in this process.

One primary obstacle for Syrian temporary protection beneficiaries is the difficulty in officially registering their children's births in Türkiye. This challenge stems from various factors such as home births, lack of awareness among parents about registration requirements, and the prevalence of early, forced, and child marriages within the community. These complexities often result in failure to register the births of their children, leading to a lack of crucial birth certification.

Furthermore, Syria's gender-discriminatory nationality law denies mothers the ability to confer nationality to children born outside Syria when their lineage from a Syrian father cannot be established. As a result, some children born in Türkiye to Syrian mothers who are beneficiaries of temporary protection may not have Syrian nationality. Although these children are otherwise stateless and should be entitled to protection, the lack of birth certification due to registration failures complicates their situation (see Section 9).

5. ROUTES TO PROTECTION

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

Under international law, in addition to the Statelessness Determination Procedure, if a stateless person is also a refugee, they may have access to other routes to protection, such as Refugee Status Determination, (for more information on stateless refugees, see Section 7). Some stateless people may be eligible for protection through other routes such as Temporary Protection (for those fleeing Ukraine),¹⁷ human rights claims (for example under the European Convention on Human Rights), and/or child-specific routes to protection or nationality. Some may also be eligible for work permits, student visas, or family-based residence permits.

¹⁷ See [ENS's Ukraine page](#) and the [Statelessness Index](#) country surveys for further information.

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

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

"Through the encouragement of a participatory approach to casework and involving children and families in decisions about the strategies taken to resolve their nationality problems, the project has sought to provide a platform for affected children and their families to tell their stories and give their views on what needs to change.... [T]his approach works. Several cases in the research resulted in positive outcomes for the children and families concerned. In all cases, families and children reported feeling heard, supported, and informed about their cases, even where systemic or other external factors affected or delayed positive outcomes".¹⁸

Stateless people in Türkiye must navigate complex and bureaucratic procedures to access protection. The existing asylum system in Türkiye operates under a dual structure, consisting of two primary protection regimes designed for Syrians and non-Syrians.

Syrians seeking asylum benefit from the temporary protection regime, providing group-based protection to those fleeing neighbouring Syria, including Syrian nationals, refugees, and stateless individuals (including Palestinians). Non-Syrian asylum seekers are subject to the international protection regime, wherein protection is granted on an individual basis after assessments to determine each person's eligibility for protection.

Asylum seekers originating from Syria are eligible only for temporary protection, with no right to pursue international protection. However, they may seek residence permits and stateless person status, as the latter is not classified as an international protection status. As the temporary protection regime extends beyond Syrian nationals to include refugees and stateless individuals from Syria, individuals without nationality who fled Syria and sought asylum in Türkiye can also be granted temporary protection status. In practice, this has led to a situation where, despite their lack of citizenship, they are often documented as beneficiaries of temporary protection, resulting in their statelessness going unrecognised.

Due to its geographical limitation to 1951 Refugee Convention, Türkiye's international protection regime comprises three distinct statuses: refugee (for individuals fleeing from Council of Europe Member States), conditional refugee (for those fleeing from other countries), and subsidiary protection (based on the principle of non-refoulement). Stateless asylum seekers may qualify for any of these statuses provided they meet the specified legal criteria. However, if a stateless asylum seeker is granted international protection status, they cannot simultaneously apply for stateless person status since individuals are typically granted only one protection status outlined in the law. In practice, because of the widespread lack of awareness regarding the SDP, most stateless asylum seekers often choose to seek

¹⁸ [Addressing the Risks of Statelessness among Children in Migration in Europe: Report on the findings of participatory action research by ENS members in five European countries](#) (2022), p. 19.

international protection instead of pursuing stateless person status, leading to their statelessness being overlooked.

Moreover, LFIP does not contain a provision on the identification of statelessness during the international protection procedure. Additionally, if an individual's application for international protection status is denied, there is no mechanism in the law to refer them to the SDP. In such cases, individuals are required to submit a separate application for statelessness determination on their own.

Finally, stateless migrants arriving in Türkiye have the opportunity to apply for different types of residence permits as outlined in the law. These include short-term residence permit, family residence permit, student residence permit, long-term residence permit, and humanitarian residence permit.

What procedure should the stateless person be referred to?

In Türkiye, other than the SDP, stateless individuals have the opportunity to regularise their stay through residence permits, provided they meet the required conditions and qualify for specific protection regimes based on their eligibility. These options, outlined in Turkish law, aim to provide different levels of protection or access to rights and services to stateless individuals based on their circumstances. Typically, individuals fall under one of the categories outlined in the law, which include:

International Protection	Temporary Protection	Stateless Person Status	Residence Permits
<ul style="list-style-type: none"> Refugee Status Conditional Refugee Status Subsidiary Protection 	<ul style="list-style-type: none"> Group-based protection to those fleeing Syria 	<ul style="list-style-type: none"> Granted through the SDP 	<ul style="list-style-type: none"> Short-term Family Student Long-term Humanitarian Human Trafficking

PROTECTION OF UNACCOMPANIED AND SEPARATED CHILDREN

Unaccompanied and separated children face major difficulties in proving their nationality and are thus at an increased risk of statelessness. Family tracing can help in locating their parents, but when the family cannot be found, the challenge is even greater. In some cases, children born abroad to a single mother are prevented from acquiring her nationality due to gender discriminatory nationality laws. Often States that have a statelessness determination procedure in place for adults simply apply it to unaccompanied and separated children without adapting the procedure to consider the specific vulnerabilities of this category of applicants.

Türkiye's national legislation provides a relatively comprehensive legal framework for the protection of all children in the country, including unaccompanied minors (UAMs), albeit there are no specific provisions relating to stateless children. LFIP ensures child protection for UAMs, while RFIP offers guidance on the scope and implementation of this protection. The Ministry of Family and Social Policies (MoFSP) plays a crucial role through its Directive on

Unaccompanied Minors, which establishes procedures and principles for the services available to UAMs. The principle of the "best interests of the child" is emphasised in this legislation, guiding all actions concerning UAMs and enforcing relevant provisions of the Child Protection Law.

Articles 66 of LFIP and 123 of RFIP specifically address the protection needs of UAMs. These provisions mandate that upon identification, UAMs must promptly be placed under MoFSP's protection. MoFSP is then responsible for finding suitable accommodation, whether in a designated facility, with adult relatives, or in a foster family, considering the child's preferences. These settings provide care for UAMs until they reach 18 years old and are no longer legally considered minors.

Age assessment is a common method used for identification of UAMs. As outlined in RFIP, if individuals claim to be minors but lack documentation and are suspected of being over 18 years old, a comprehensive age assessment is required. This assessment must include both physical and psychological examinations. Consistent with the principle of the 'benefit of the doubt,' individuals must be considered minors if doubts persist about their age after the assessment. However, if the age assessment definitively establishes that they are 18 years of age or older, they are then treated as adults.

NATURALISATION

When considering the advantages and disadvantages of specific procedures available to stateless individuals, a pivotal concern revolves around the opportunities for naturalisation.

While there is no specific facilitated route to naturalisation tailored for stateless individuals in Türkiye, those with stateless person status have the option to apply for Turkish citizenship through the standard procedure outlined in the law. Conversely, individuals under temporary protection from Syria cannot apply for Turkish citizenship through the standard procedure, and there is no established path to naturalisation for those under international protection.

Applicants for Turkish citizenship must undergo a preliminary investigation to confirm their eligibility, including proving a genuine intention to settle in Türkiye. However, asylum seekers, including international protection applicants, status holders, and temporary protection beneficiaries, are automatically considered to be lacking this intention (see Section 10).

Individuals under international protection face a challenging situation, being permitted to stay in Türkiye until they can be resettled in a third country or safely return to their homeland. The recognition of the right to local integration is limited, applying only to "refugees" from Council of Europe Member States. The legal rights and obligations provided under international protection serve to assist "conditional refugees" in maintaining their livelihoods during their temporary stay in Türkiye, awaiting resettlement or voluntary return to their country of origin.

In view of these circumstances, there is no clear long-term solution for either Syrian beneficiaries of temporary protection or individuals under international protection. The current legal framework presents significant barriers to naturalisation, leaving many in a state of uncertainty regarding their future and residence status in the country.

Therefore, stateless person status stands out as a more viable option for those seeking stability and settlement in Türkiye. Despite the challenges that stateless individuals may face, the ability to apply for Turkish citizenship through established procedures offers a pathway

to integration, a solution to their statelessness, and a more secure future within Turkish society.

Additional information is available in the [Statelessness Case Law Database](#) and the report [Addressing the Risks of Statelessness among Children in Migration in Europe](#). Additional information about the law, policy, and practice on statelessness in Türkiye is available in the [Statelessness Index](#), while jurisprudence from courts in other countries is available in the [Statelessness Case Law Database](#).

6. DETERMINING STATELESSNESS

Türkiye's LFIP establishes a specialised SDP administered by the migration management authorities. This procedure plays a crucial role in the legal recognition of statelessness for individuals within Türkiye's borders. Upon completion of the SDP, those officially recognised as stateless are granted a Stateless Person Identification Document. This document serves as tangible proof of their statelessness status, providing them with legal recognition and access to certain rights and services. The SDP, situated within the administrative framework, is instrumental in safeguarding the rights and dignity of stateless individuals, ensuring they are not left in legal limbo but are officially acknowledged and afforded the protections they are due under Türkiye's legal system.

ACCESS TO THE PROCEDURE

Access to the SDP in Türkiye is facilitated through various measures outlined in LFIP, aiming to ensure that potential applicants can navigate the process:

- LFIP permits the submission of statelessness determination applications directly to the PDMM, which then forward these applications to the central statelessness determination body, PMM. This mechanism allows for a decentralised approach, enabling applicants to access the SDP through local offices.
- LFIP does not mandate authorities to proactively identify stateless persons within Türkiye's borders. As a result, there is no automatic initiation of the SDP. Stateless individuals are required to apply to be officially recognised as such through the procedure.
- LFIP specifies that any statelessness determination applications made to law enforcement agencies, public institutions, or organisations within the country or at border crossings must be promptly relayed to the PDMM. This requirement ensures that applications are swiftly channelled to the appropriate authorities for consideration.
- The PMM's website serves as a valuable resource, offering guidance on how to submit a statelessness claim in multiple languages. This aims to assist applicants from diverse

linguistic backgrounds in understanding and navigating the application process effectively.¹⁹

- Applicants are afforded flexibility in submitting their statelessness claim, as it is allowed for both oral and/or written submissions in any language. This inclusive approach recognises the diverse linguistic capabilities and preferences of applicants, ensuring that language barriers do not hinder access to the SDP.
- A straightforward and concise application form is used, designed to facilitate the submission process for applicants.
- In cases where applicants do not possess a stateless person's identity document or a passport intended for stateless persons from another country, the migration management authorities are obligated to review their statelessness determination applications. However, if applicants do possess such documents, their applications will not be processed.

WHO HAS THE BURDEN OF PROOF IN STATELESSNESS DETERMINATION?

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

LFIP recognises that the burden of proof is shared between the stateless determination applicant and the migration management authorities. Accordingly, applicants are required to provide information and documents proving that they have no nationality ties with any country. Where necessary and appropriate, the migration management authorities may seek information from the foreign consular authorities of countries with which applicants have strong links.

In practice, securing a certificate of non-nationality from consular authorities can be an arduous process. The difficulties are compounded when migration management authorities step in to assist, as there are often significant delays in official communication with consular offices. These practical hurdles serve as formidable barriers to demonstrating statelessness. For many applicants, the bureaucratic complexities and delays in obtaining this crucial document can be overwhelming, adding yet another layer of challenge to an already difficult situation.

¹⁹ The Presidency of Migration Management. Determination of Statelessness: <https://en.goc.gov.tr/determination-ofstatelessness>.

Important notes:

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

WHAT IS THE STANDARD OF PROOF FOR DETERMINING STATELESSNESS?

The UNHCR Statelessness Handbook confirms that the standard of proof for determining statelessness should be the 'reasonable degree of likelihood' standard (which also applies in refugee status determination). This is also sometimes referred to as a 'real risk' or a 'real possibility' standard. Applying a higher standard of proof would undermine the object and purpose of the 1954 Convention.²⁰

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

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

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

Türkiye's LFIP does not establish a specific standard of proof for the SDP. However, it incorporates provisions to tackle the inherent challenges of proving statelessness, recognising the complexities involved in this process:

²⁰ UNHCR's Statelessness Handbook, Paragraph 91.

- LFIP acknowledges that applicants may encounter difficulties in producing identification documents to substantiate their statelessness claims. In such cases, the law permits the use of oral testimony as a valid basis for proving statelessness. This provision acknowledges the reality that stateless individuals often lack official documentation due to their unique status, allowing their personal accounts to serve as credible evidence.
- LFIP establishes that in instances where applicants are unable to provide sufficient information and documents to prove their statelessness, the nationality laws of the relevant country are accepted as evidence. This recognition acknowledges the legal barriers that stateless individuals face in obtaining documentation and provides an alternative avenue for verifying their claims.

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

Omar is a 47-year-old man who was born out of wedlock in a country on the brink of civil war. Despite possessing a birth certificate that details his parents' names and birthplace, he lacks a national identity document from his home country. This absence is attributable to his parents' unmarried status and his father's refusal to acknowledge paternity.

The exclusion is compounded by the fact that, until 2010, the nationality laws of his home country prohibited women from passing nationality to their children. Although a subsequent amendment aimed to rectify this gender discrimination, its practical implementation remained limited. Furthermore, Omar's mother passed away before this legal reform took effect.

In 2014, amidst civil unrest in his homeland, Omar fled seeking safety. With assistance from an NGO, he became aware of the possibility of pursuing legal status in his destination country.

Given his circumstances, it is reasonably likely that Omar is (1) stateless and (2) at risk due to serious threats to life, physical integrity, or freedom resulting from generalized violence seriously disturbing public order, qualifying him for international protection status.

WHAT EVIDENCE MAY BE USEFUL TO PROVE STATELESSNESS?

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

The LFIP does not specify any types of evidence that must be submitted by applicants of the SDP. In practice, however, a concerning trend arises where migration management authorities tend to complicate the process of assessing statelessness claims by demanding documentary evidence. This shift away from relying on the verbal statements of applicants or the provisions of nationality laws can create significant hurdles. Authorities often request supplementary documentation such as birth certificates, residence records, or other official

papers, adding layers of complexity and potential obstacles for stateless individuals seeking recognition of their status. This approach can pose a barrier to the substantiation of statelessness claims, making the process more burdensome and challenging for applicants who may already face significant difficulties in obtaining official documentation.

In line with UNHCR guidance, the authorities should consider all types of documentary and non-documentary evidence when determining statelessness. Evidence that may be useful to demonstrate a person's identity, place of origin or former habitual residence, and statelessness includes – but is not limited to:

- the individual's own statements about why they are stateless
- statements of relevant people who know them (e.g. from a stateless community)
- identity documents (e.g. birth certificate, extract from civil register, national identity card, voter registration document)
- passports or other travel documents (valid or expired)
- evidence of refusal of entry into a country of potential nationality
- parent's or applicant's marriage certificate
- citizenship certificate
- documents relating to renunciation of nationality, or any other legal documents or court decisions
- identity and travel documents of family members
- confirmation of registration with UNRWA, GAPAR, or some other relevant agency²¹
- applications or correspondence relating to efforts to acquire or obtain proof of a nationality, including for example letters or emails to or from government officials, including embassies and consulates [where safe/appropriate to engage in such communication]
- statements or affidavits by people who accompanied the individual to an embassy or contacted an embassy or other institution to make enquires about nationality or identity
- school certificates or evidence relating to inability to attend school
- military service records
- medical records (including hospital / midwife birth records)
- employment records or evidence proving impossibility to be employed
- social welfare records or other evidence of restricted access to social services
- records relating to failed efforts by the individual to travel to a country of possible nationality or former habitual residence or failed efforts to remove the individual to another country, or any other relevant documentation issued by immigration authorities or border control
- a list of people who have been deprived of citizenship or other evidence of deprivation of nationality relating to the applicant, a family member, or an associate

²¹ Note that while UNRWA registration may indicate a person's Palestinian origin and confirm eligibility to receive UNRWA services within UNRWA's area of operations. Registration with UNRWA does not prove nationality or residence status, nor is such registration proof, on its own, that a person necessarily falls within or is excluded from the scope of the 1951 Convention or the 1954 Convention. See ENS & BADIL report, note 2.

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

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

This is not an exhaustive list. Often there will not be much evidence. Other types of evidence may be relevant in some situations. Some of these pieces of evidence will clearly carry more weight than others, and much may depend on whether an official believes a person's testimony. As with refugees, stateless people should be given the benefit of the doubt: i.e., the statements of a person applying for recognition as a stateless person should be accepted unless there are strong reasons and evidence to indicate that their testimony is not accurate with respect to material factors. Some stateless people will know what evidence is available to support their claims (if any) and be able to explain their situations chronologically and coherently, while others will not.²²

ROBUST STATELESSNESS DETERMINATION PROCEDURES AND RIGHTS OF STATELESS PEOPLE

The UNHCR Statelessness Handbook confirms that statelessness determination procedure should be formalised in law to ensure fairness, transparency, and clarity of the procedure.²³ It is important to ensure that certain procedural safeguards are guaranteed so that the dignity and safety of stateless people is ensured. Therefore, at least the following safeguards should be incorporated or ensured:

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

PROCEDURAL SAFEGUARDS

Procedural safeguards within Türkiye's SDP are designed to uphold the rights of applicants and ensure a fair and comprehensive assessment of their statelessness claims:

²² Further information about how to adequately evidence a statelessness application is available in this [Best Practice Guide](#) (relating to in the UK, but relevant in other countries; see Section C16 in particular).

²³ UNHCR's Statelessness Handbook, paragraph 71.

- As part of the SDP, applicants have the right to an interview with an official within 15 days of their application. This interview serves as a critical opportunity to explore various aspects of the applicant's circumstances and statelessness claim.
- During the interview, several key issues are reviewed and clarified: (1) The date and method of the applicant's entry into Türkiye; (2) information regarding any relatives residing in the country; (3) the applicant's means of subsistence; (4) details concerning their statelessness and the reasons for seeking statelessness status; (5) determination of any previous nationality, including requests for relevant documents; (6) any previous applications for stateless person status in other countries, along with reasons for rejection and related documentation; (7) exploration of the possibility of regaining any previously lost citizenship.
- A crucial aspect of the SDP is that decisions made following the procedure must be accompanied by clear and explicit reasons. This requirement aims to ensure transparency and accountability in the decision-making process, providing applicants with insight into the rationale behind their status determination outcome.
- The LFIP mandates that the PMM must conclude the procedure for determining statelessness within 90 days at the latest. This period is established to ensure timely and efficient processing of applications, preventing undue delays, and providing applicants with a definitive resolution within a reasonable period.
- Applicants undergoing the SDP are entitled to apply for legal aid services from provincial bar associations at no cost. This provision aims to support applicants who may require legal assistance throughout the process, ensuring they are adequately represented and informed.²⁴

PROTECTION DURING THE SDP

Protection measures during Türkiye's SDP aim to safeguard the rights of applicants and provide legal certainty throughout the process:

- LFIP acknowledges the lawful presence of applicants within the country while they await the outcome of the SDP. This recognition ensures that applicants are not subject to legal jeopardy or risk of deportation during this period of uncertainty regarding their statelessness claim.
- Upon acceptance of their applications, individuals are issued an application document at no cost. This document serves as a temporary permit for their stay in Türkiye until a final decision is made on their statelessness claim. This measure provides applicants with legal documentation to validate their presence in the country while the SDP is ongoing, offering them a sense of security and protection against arbitrary removal or detention.
- In the event of a decision rejecting their statelessness claim, individuals maintain the right to challenge this decision by filing an appeal with the administrative court. The court with jurisdiction over such appeals is determined by geographical location and is situated in Ankara where the decision-maker authority (PMM) is headquartered.

²⁴ Article 176 of [the Attorney Act No. 1136](#) that took effect upon its publication in the Official Gazette (No. 13168, dated 7 April 1969).

- It is important to note that appealing against a negative decision incurs certain costs for the individual. These costs typically include postal charges, standard fees, and Bar Association stamps. The applicable costs are set in accordance with the law. While this places a financial burden on the appellant, it is a standard procedure in administrative appeals.

ACCESS TO RIGHTS AND SERVICES

Within Türkiye's legal framework, individuals with stateless person status are granted a range of rights and protections, including:

- A Stateless Person Identification Document, which acknowledges their statelessness and confers the right to reside in Türkiye. This document is automatically renewed every two years, provided that the individual's statelessness persists. This process of renewal ensures that stateless person status holders maintain their legal recognition and associated rights within Türkiye's legal system.
- Protection from deportation, except in cases where their actions pose a severe threat to public order or public security. This protection ensures that individuals with stateless person status are shielded from arbitrary removal and can remain in Türkiye without fear of forced expulsion.
- The right to apply for a travel document, known as a foreigner's passport. This travel document, governed by the Turkish Passport Law, enables stateless person status holders to travel internationally and access various opportunities.
- The right to seek a work permit, subject to the conditions specified in the Law on International Labour Force. This provision empowers stateless person status holders to pursue gainful employment in Türkiye, contributing to their economic stability and integration.
- Eligibility to apply for one of the residence permits available under the conditions outlined in LFIP. This option provides individuals with various residence permit options, allowing them to choose the most suitable category based on their circumstances.
- Access to education opportunities and the General Health Insurance Scheme. Access to education ensures that stateless person status holders have the opportunity to pursue academic endeavours, enhancing their skills and knowledge. Inclusion in the General Health Insurance Scheme provides stateless person status holders with essential healthcare coverage, safeguarding their well-being and ensuring access to medical services when needed.

REVOCAION OF THE STATELESS PERSON IDENTIFICATION DOCUMENT

The Stateless Person Identification Document can be revoked under specific circumstances. These circumstances include:

- **Acquisition of Another Nationality:** If an individual acquires the nationality of another country after being granted stateless person status in Türkiye
- **False Information:** If it is discovered that false information was provided during the SDP.
- **Deportation Decision:** If an individual's actions pose a significant threat to public order or public security, and a deportation decision is issued.

For further information about international standards for statelessness determination and examples of good practices, please see ENS's reports [Statelessness determination and protection in Europe: good practice, challenges, and risks](#) and the [Good Practice Guide on Statelessness Determination and the Protection Status of Stateless Persons](#). Additional information about the law, policy, and practice on statelessness in Türkiye is available in the [Statelessness Index](#), while jurisprudence from other countries is available in the [Statelessness Case Law Database](#).

7. STATELESS REFUGEES

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

It is vital that statelessness is identified in asylum procedures. This is necessary, for example, to ensure that all forms of persecution are considered and to prevent a stateless person being forced to return to a country where they face a risk of persecution or harm or a precarious future as a stateless person.

LFIP explicitly states that stateless asylum seekers can qualify for international protection. Statelessness itself can be a valid reason for asylum seekers' well-founded fear of persecution. The absence of nationality or recognised citizenship often exposes individuals to discrimination, lack of access to essential services, and the constant threat of statelessness-related abuses. This fear and vulnerability can prevent them from returning to their former habitual residence, forming the basis for their claim for international protection status.

It is important to note that within the asylum procedures in Türkiye, there are no specific criteria tailored solely for identifying statelessness. Instead, stateless asylum seekers must navigate the existing legal framework, which may not always adequately address their unique circumstances. This underscores the necessity for heightened awareness and sensitivity among authorities and decision-makers when assessing stateless asylum claims.

Under international standards, if a stateless person applies for asylum and for determination of their statelessness, it is important to determine both claims. Each application should be assessed, and both types of status should be explicitly recognised so that even if refugee status or another form of protection ceases, the person remains entitled to protection as a stateless person. This also helps to prevent arbitrary or unlawful detention, which can occur if a stateless person, who has no country to which they can return, is refused international protection (or their protection status ceases), and their statelessness has not been identified and determined. Statelessness determination should be conducted either in parallel with or following the refugee status determination, with due regard to the primacy of the asylum

claim and the principle of confidentiality for refugees in statelessness determination procedures (see section 6). This means that if determining statelessness would require making enquiries to authorities which could compromise the safety of the applicant, the statelessness claim should be suspended until the refugee status determination is concluded, or the host state should determine that the applicant is stateless based on their own testimony and any other available evidence.

A stateless person who seeks asylum but who is not eligible for international protection status should be referred to a statelessness determination procedure. A stateless person who has been refused international protection status (or who was granted international protection status which has now ceased due to improved conditions in the country of origin) should not be expected to return to a country in which they do not have nationality. Identifying statelessness early in the asylum process can also help prevent later unlawful detention of stateless people for the purpose of removal to a country of which they are not a national.

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

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

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

LFIP introduces a distinct classification of “persons with special needs” within its provisions, aiming to address the needs of various vulnerable groups. This category encompasses unaccompanied minors, persons with disabilities, elderly individuals, pregnant women, single parents with a child, and those who have suffered from torture, sexual assault, or severe psychological, physical, or sexual abuse (Article 3(1)(1)). However, it is notable that stateless individuals are not explicitly included in this classification, highlighting a gap in the protection framework for this specific group.

LFIP emphasises the importance of prioritising the rights and measures for persons with special needs throughout the international protection procedure (Article 67). There are official screening mechanisms for the identification of such individuals, enabling authorities to prioritise their unique needs. However, it is important to note that these mechanisms are not publicly accessible, potentially limiting the visibility and accessibility of support for vulnerable groups.

In the context of stateless asylum seekers, LFIP does not provide an established referral mechanism to direct them to the SDP for recognition and determination as stateless persons if their application for international protection status is denied. In the absence of a formal referral system, stateless individuals are left to navigate the process of applying for stateless person status independently, which can be complex and challenging.

Moreover, LFIP stipulates that if a stateless asylum seeker is granted international protection status, they are prohibited from simultaneously applying for statelessness determination. The law specifies that individuals may hold only one of the specified legal statuses, requiring them to make a decision on which status to pursue and submit the appropriate application accordingly.

An observation has been made regarding the handling of cases where individuals raise both international protection and statelessness claims. Authorities do not typically assess these claims collectively or prioritise one over the other based on the individual's interests for broader protection. As a result, individuals are encouraged to carefully consider which status they wish to apply for, recognising the implications and limitations outlined within the legal framework. This underscores the importance of informed decision-making for stateless individuals navigating Türkiye's legal system, as they must weigh the consequences and available options under LFIP.

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

8. DETENTION OF STATELESS PEOPLE

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

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

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

UNHCR has called on States not to detain stateless persons on the sole basis of them being stateless. UNHCR's Statelessness Handbook emphasises that, even when detention is justified, people awaiting statelessness determination must not be detained in the same spaces as convicted criminals or individuals awaiting trial. Statelessness determination procedures are an important mechanism to reduce the risk of prolonged and/or arbitrary

detention. There must be mechanisms for detained people who are stateless or whose nationality is unclear or unconfirmed to be referred to statelessness determination procedures when appropriate.²⁵

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

IMMIGRATION DETENTION

In Türkiye, immigration detention is an administrative measure that is not supposed to be punitive in nature. The power to issue detention orders is legally vested in the governorates, with practical implementation carried out by the Provincial Directorates of Migration Management.

LFIP provides for two types of immigration detention: detention for the purpose of deportation (Article 57) and detention of applicants for international protection during the processing of their applications (Article 68).

Migration management authorities avoid automatically resorting to the latter form of detention as a routine procedure. This ensures that individuals seeking international protection are not detained solely based on their asylum application. In practice, immigration detention is mainly used for individuals awaiting deportation proceedings.

According to the law, law enforcement authorities can apprehend individuals for various immigration-related reasons, such as overstaying a visa, revocation of a residence permit, violations of entry or stay regulations, and rejection of international protection applications, among others. It is the duty of law enforcement to promptly notify the relevant PDMM about these apprehended individuals, enabling decisions on whether they should be removed.

However, not all individuals with a removal order can be detained. There are specific grounds that justify the detention of these individuals, including: (1) being at risk of fleeing, (2) violating entry and exit protocols, (3) using fraudulent documentation, (4) failing to depart within the allotted timeframe, or (5) posing a potential threat to public order, security, or health.

Stateless individuals, particularly those who have not applied for the SDP, or stateless asylum seekers who have not applied for international protection, may be subject to detention for removal purposes under the conditions listed in the law. Nevertheless, it is crucial to emphasise that statelessness *per se* does not constitute a ground for pre-removal detention.

LFIP explicitly excludes only unaccompanied minors from detention as they must be placed in suitable accommodation facilities under the authority of the Ministry of Family and Social Services. No other vulnerable groups are exempt from detention under the law.

²⁵ See UNHCR's Statelessness Handbook, paras 112-115.

ALTERNATIVES TO DETENTION

The Law on Foreigners and International Protection provides for the following alternatives to detention (ATDs): (a) residence at a specified address; (b) notification; (c) family-based repatriation; (ç) return counselling; (d) voluntary work in public services; (e) guarantee; (f) electronic monitoring (Article 57/A).

The Implementing Regulation on ATDs provides the option to replace immigration detention with measures that do not restrict an individual's liberty when they have received a removal order. These measures can be applied for a maximum duration of 24 months, and failure to comply can lead to pre-removal detention. According to the regulation (Article 6), ATDs can be applied to the following groups of people:

- Individuals whose immigration detention has been terminated.
- Individuals considered suitable for ATDs without an immigration detention decision.
- Individuals whose immigration detention has been terminated following an assessment by PMM or the relevant PDMM.
- Individuals whose immigration detention was terminated by the decision of the PDMM based on the ruling of a Criminal Judgeship of Peace.

IDENTIFICATION OF COUNTRY OF REMOVAL

LFIP allows foreigners to be deported to their country of origin, a transit country, or a third country by means of a deportation order. Although there is no explicit provision in the law requiring the country of removal to be specified in removal orders, the assessment of whether the individual would be at risk if returned inherently requires identification of the country of removal in order to assess the conditions therein.

This is because, in line with the principle of non-refoulement, LFIP prohibits removal if individuals would face the death penalty, torture, inhuman or degrading treatment, or if they require treatment for a life-threatening health condition that cannot be provided in the country of removal.

The determination of whether individuals qualify for exemption from deportation must be done on a case-by-case basis. Assessing the conditions for exemption from removal inherently involves evaluating the conditions in the country of removal. In essence, not specifying the country of removal makes it impossible to definitively assess the impact of potential removal on the individual.

PROCEDURAL SAFEGUARDS

LFIP guarantees essential procedural safeguards for individuals held in immigration detention, which are applicable to all irrespective of the grounds for their confinement. These include:

- Individuals facing detention for removal purposes must be transferred from police stations to a removal centre within 48 hours of the detention order issuance. Pre-removal detention is permitted for an initial duration of 6 months, and in cases where non-cooperation leads to removal failure, this period can be extended for an additional 6 months. Additionally, the duration of the detention for international protection applicants must not exceed 30 days.

- A regular monthly review by the PDMM is required to assess the need for continued pre-removal detention. If deemed necessary, these reviews can take place without waiting for the prescribed interval. Following the review, detainees must be released if the reasons for their detention are no longer valid. None of these reasons relate to statelessness and there is no obligation on authorities to release a person when there is no reasonable prospect of removal. Individuals for whom the grounds for pre-removal detention no longer exist may be subjected to ATDs. In practice, however, there have been cases where migration management authorities have failed to carry out these reviews, leading to prolonged detention of individuals.
- The decision to detain can be contested at any time before the competent Criminal Judgeships of Peace. These appeals do not carry a "suspensive effect" on the execution of detention orders. The Criminal Judgeships of Peace are obliged to conclude the appeals within 5 days, and their decision is final and unappealable. However, there are no limitations on new appeals if the grounds for detention are no longer valid or have changed. Additionally, individuals under pre-removal detention have the right to challenge a removal order to the competent Administrative Court within 7 days after being notified of the decision. The Administrative Court must finalise the appeal within a period of 15 days, and this ruling is final. Initiating this appeal suspends the execution of the removal order from the moment it is communicated to the authority that issued the removal decision.
- Individuals held under detention have the right to access legal assistance, counselling, and representation services. Should they opt to shoulder the financial responsibilities associated with attorney's services, they have the option to engage a private lawyer. Those lacking the financial means to secure a lawyer can avail themselves of free legal services offered by the state-funded Legal Aid Scheme run by provincial bar associations or NGOs.
- Asylum-seekers detained for the purpose of removal retain the right to apply for international protection, a right that is also extended to stateless asylum seekers. However, in practice, detainees often encounter obstacles when trying to initiate their international protection applications from detention facilities. Furthermore, there is currently no established official mechanism to identify asylum-seekers, including those who are stateless, within detention facilities or to facilitate their referral to the international protection procedure or SDP.
- In removal centres, detainees are entitled to visits from consular officers from their home country and UNHCR, and communication with their relatives, legal representatives, lawyers, and notaries, with the right to use telephone services for this purpose. Representatives of relevant NGOs may also visit the removal centres upon permission of the PMM.

Despite the existence of a relatively comprehensive legal framework providing basic procedural safeguards for persons held in immigration detention, the practical implementation of these measures is often limited. Authorities often fail in their duty to provide detainees with essential information about the reasons for their detention, the procedures they will face, and their rights during their confinement. Access to free legal assistance remains inadequate, especially due to budget shortages in bar associations' legal aid services.

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

All children have a right to a nationality, under the UN Convention on the Rights of the Child and other international human rights instruments. The 1961 Convention on the Reduction of Statelessness sets out international standards for avoiding childhood statelessness.

Birth registration can help prevent statelessness, although it is usually not, on its own, proof of nationality, unless the child was born in a country that provides automatic nationality to all children born on the territory (birthright, or *jus soli* nationality). Lack of birth registration heightens the risk that a child may be left without a nationality or experience difficulties proving nationality.²⁶

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

BIRTH REGISTRATION

In Türkiye, under the Population Services Law (PSL), it is mandatory for all foreign parents, irrespective of their legal status, to register the births of their children that occurred in the country. The registration must be done before the Population and Civil Registry Departments within 30 days of the date of birth (Article 15 of the PSL). If the parents are not available, the child's legal guardian, grandparents, adult siblings, or other accompanying individuals can also inform the Population and Civil Registry Departments about the birth.

The 30-day time limit does not prevent birth registration, as late registration is possible. However, failing to make the birth registration within the specified timeframe will lead to an administrative fine, the amount of which is subject to annual adjustments based on inflation.

For children under the age of six, who are registered after the stipulated deadline, the statement of registering person serves as the basis for determining their date of birth. In cases where the children have reached the age of six, their age is determined by an official health institution. If an official birth report is presented, there is no need for a separate age determination procedure.

Foreign parents, regardless of their legal status, must first register themselves with the migration management authorities and obtain a foreign ID number to be able to register the births of their children in Türkiye.

As stipulated by PSL, the civil information related to foreigners assigned an ID number is recorded in the foreigners' registry (Article 3 (1) (çç) of the PSL). The Regulation Governing the Maintenance of Civil Records for Foreign Residents in Türkiye also outlines that foreigners whose civil records are maintained must inform the Population and Civil Registry Departments about any civil events concerning them, including the births of their children (Article 9).

The birth registration process requires the submission of a birth report issued by a hospital and verified by the Ministry of Health to complete the process.

²⁶ For more information, see [Birth registration and the prevention of statelessness in Europe: identifying good practices and remaining barriers](#) (ENS, 2020).

Births occurring within healthcare institutions or outside them under the oversight of healthcare personnel are reported to the Population and Civil Registry Departments by the respective healthcare facility. The notification comprises a report or official document verifying the birth's occurrence within a healthcare institution or under the supervision of healthcare personnel (Article 15 (2) of the PSL).

Parents are required to verbally declare the birth of children born outside the supervision of healthcare personnel to the Population and Civil Registry Departments. Nonetheless, due to the need for verification, the veracity of these verbal declarations must be investigated upon the directive of the local administrative authority. As a result, these declarations are not officially recorded until the investigation has been completed (Article 15 (4) of the PSL).

Once the birth is registered, the Population and Civil Registry Department issues a birth certificate as stipulated by the Implementing Regulation of the Population Services Law (RPSL) (Article 28 of the RPSL). This also includes the issuance of a multilingual birth certificate (Formul A).

The registration process and the issuance of the certificate do not incur any fees.

It is crucial to emphasise that reporting the child's birth to the PDMM is essential, as it results in the issuance of a foreigner identity document confirming their residence status in Türkiye. However, it is also necessary to register the child's birth with the Population and Civil Registry Departments. This additional step is important because the foreign identity documents verifying residence status in Türkiye will be returned upon the termination of the individual's residence in the country or when they depart. Conversely, the birth certificate issued after birth registration will remain with the family, even if they leave Türkiye.

For information regarding birth registration, please see: UNHCR Türkiye. Help: Birth and Death registration: <https://help.unhcr.org/turkiye/social-economic-and-civilmatters/birth-registration/>.

BARRIERS TO BIRTH REGISTRATION

In Türkiye, Syrian temporary protection beneficiaries face multifaceted challenges when it comes to registering the births of their children. Securing a birth certificate, which includes the father's name, is a critical step for these individuals, especially considering that Syria's nationality laws deny mothers the ability to confer their nationality to their children born outside Syria when a Syrian father cannot be established. This process not only documents the child's birth but also plays a pivotal role in maintaining and confirming their link to Syrian nationality.

Yet, various obstacles hinder the registration of children born to Syrian refugees in Türkiye, which include:

- **Home births:** In some communities, the widespread practice of home births is influenced by legal and socioeconomic factors affecting women's decisions. However, this creates a significant barrier to registering the child's birth, as a birth report issued by hospitals or health institutions must be submitted.

Many women choose home births because they are not registered as beneficiaries of temporary protection, meaning they lack valid IDs. This lack of documentation restricts their access to healthcare services, as visiting hospitals without proper papers could lead to detention or deportation. Consequently, mothers often forgo hospital visits, opting instead for home birth or clandestine clinics.

Another common reason for home births is the high prevalence of early and forced child marriages, as well as polygamous marriages in Türkiye, particularly within the Syrian temporary protection beneficiary community, despite being illegal. In cases where women under the age of 18 or those without an official marriage give birth, home births or deliveries in unauthorized clinics have become a widespread practice to avoid drawing the attention of official authorities, as legal proceedings may be initiated against the spouse and parents.

- **Inconsistent practices:** Syrian temporary protection beneficiaries are required to register the births of their children in Türkiye at the Population and Civil Registry Departments in their province of residence. However, various inconsistent practices have arisen, such as some departments requesting an official marriage certificate from the parents, despite this not being a requirement under Turkish law. This poses a significant challenge, particularly in instances of polygamous marriages, which are common in Syria but not legally recognised in Türkiye, as it hampers their ability to provide an official certificate to prove their marital status.

Another barrier to obtaining birth registration stems from administrative errors originating from the registration process of Syrians who arrived at the onset of the conflict in Syria, particularly those who came to Türkiye between 2011 and 2014 (before the establishment of DGMM). During this period, Syrians were registered with the Disaster and Emergency Management Presidency (AFAD), and the process was not yet standardised, resulting in several inconsistencies. For instance, some names were misspelled, and spouses were sometimes registered with different marital statuses (one as single and the other as married). These challenges have significantly complicated the birth registration process.

- **A lack of awareness among parents:** A significant factor contributing to the low rates of birth registration among children of Syrian temporary protection beneficiaries is a general lack of awareness. Many parents are simply unaware of their duty and right to obtain a birth certificate for their child in Türkiye. This lack of awareness can be attributed to numerous factors, including limited access to information, language barriers, and a lack of outreach programmes specifically targeting this community.

Additionally, there is a notable level of restraint among parents when it comes to approaching official institutions in general, including the Population and Civil Registry Departments for birth registration. This restraint stems from fears of deportation, potential ill-treatment, and a lack of language support at these institutions. The complex bureaucracy and unfamiliarity with Turkish laws and procedures further exacerbate these concerns.

These combined factors create a challenging environment for Syrian temporary protection beneficiaries, where the lack of awareness, coupled with fears and practical barriers, often prevents them from fulfilling their duty to register their children's births.

The failure to obtain a proper birth certificate in Türkiye can pose a significant risk of statelessness for the children of Syrian temporary protection beneficiaries. Therefore, ensuring proper birth registration is not just a bureaucratic formality; it is crucial for safeguarding nationality rights of these children, helping to prevent the potential risk of statelessness.

For further insights into the challenges surrounding birth registration in Türkiye for Syrian temporary protection beneficiaries and the resulting risk of statelessness for their children born in the country, please refer to:

Refugees International. Birth Registration in Türkiye: Protecting the Future for Syrian Children. 29 April 2015: <https://www.refugeesinternational.org/reports-briefs/birth-registration-in-turkey-protecting-the-future-for-syrian-children/>

Yeşim Mutlu. Elephants in the Room? Syrian 'refugee' children and the risk of statelessness in Türkiye in 'Children and Youth in Varied Socio-Cultural Contexts Theory, Research, Praxis' edited by Urszula Markowska-Manista. Wydawnictwo Akademii Pedagogiki Specjalnej. Warsaw, 2018: <https://www.ceeol.com/search/articledetail?id=798463>.

Yeşim Mutlu, Emrah Kırımsoy, Şahin Antakyalıoğlu. Bulanık Mekanlarda Gölgede Kalanlar: Suriyeli Mülteci Çocuklar ve Vatansızlık Riski Araştırma Raporu [Shadowed in Blurred Spaces: Research Report on Syrian Refugee Children and the Risk of Statelessness]. March 2016: https://www.researchgate.net/publication/335368613_Hazirlayanlar_Bulanik_Mekanlarda_Golgede_Kalanlar_Suriyeli_Multeci_Cocuklar_ve_Vatansizlik_Riski_Arastirma_Raporu.

NATIONALITY DETERMINATION PROCEDURES

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

In some cases, a nationality determination procedure will identify that a child is stateless. If there are no automatic safeguards in law for the child to acquire the nationality of the country

in which they were born, the parents should be informed of ways that their child might be able to obtain a residence permit and acquire a nationality as soon as possible.²⁷

NATIONALITY DETERMINATION PROCEDURES

In Türkiye, nationality determination procedures differ for foreigners born in the country and those deemed Turkish nationals, regardless of their place of birth.

- **Foreigners:** The rules regarding the determination of nationality for foreign children born in Türkiye are detailed in the RPSL. According to these regulations, in the birth records of children born in Türkiye to foreign citizens, the child's nationality is indicated by stating, "They are a citizen of the State of [State Name]." This report includes the names of the mother and father, along with the place and date of birth. The child's details are documented in the foreigners' registry, and the link between the child and the reporting parent is established using the foreigner's ID number. The law does not specifically address statelessness or unknown/undetermined nationality of a child. In practice, there may be a presumption that the child has the same nationality as the parent(s).
- **Nationals:** According to Turkish Citizenship Law, a child is deemed a Turkish national by descent, whether born in Türkiye or abroad, under the following conditions: (a) the child is born to a married Turkish father or mother; (b) the child is born out of wedlock to a Turkish mother and a foreign, stateless, or unknown father; or (c) the child is born out of wedlock to a Turkish father and a foreign mother, provided that the conditions and procedures for determining paternal descent are satisfied.

SAFEGUARDS AGAINST CHILDHOOD STATELESSNESS

The Turkish Citizenship Law (TCL) offers relatively good legal safeguards to prevent childhood statelessness. One such provision aims to prevent childhood statelessness by granting Turkish nationality to every child born in the country who would otherwise be stateless (Article 8 (1) of TCL).

Despite the adoption of the *jus soli* principle in this provision, there are significant challenges that hinder its full implementation. This is because the nature of this provision is not absolute but conditional, meaning that gaining Turkish citizenship for otherwise stateless children requires a formal application rather than automatic acquisition.

The Implementing Regulation of the Turkish Citizenship Law (RTCL) regulates the application process. Accordingly, for such citizenship acquisition applications, the following documents must be submitted:

- A petition stating the application request.
- A birth certificate confirming the child's birth in Türkiye.
- A birth record made based on the birth certificate.
- Evidence that the children did not acquire citizenship from any other country through their parents.

²⁷ Additional information available in [ENS's report relating to birth registration for stateless children](#) (note 16) and on the [Stateless Journeys site](#), and birth registration is covered in the [Statelessness Index](#) (see Questions PRS.6.a – 6.h on the country surveys).

- If both the mother and father are stateless, documentation proving this situation, if available. The law does not specifically require the Stateless Person Identification Document issued by the Turkish authorities and it is also possible for parents to show documentation from other countries indicating their statelessness (Article 11 of the RTLC).

Obtaining the mentioned documents can be challenging for many wishing to make an application, particularly Syrians under temporary protection, largely due to obstacles with birth registration (see, 'Barriers to birth registration' above).

Children's right to a nationality: jurisprudence

International Caselaw:

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

Examples from other national courts:

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

More information is available on the [Stateless Journeys website](#) and in the [Statelessness Case Law Database](#). Additional country information is available in [the Statelessness Index Country Profile of Türkiye](#). You can also access additional details in the relevant sections of [the Country Survey Data](#) provided herein.

10. NATURALISATION AND INTEGRATION

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

*States shall as far as possible facilitate the assimilation and naturalization of stateless persons. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.*²⁸

Under international standards, where stateless people are eligible for facilitated naturalisation or integration assistance, it is important that their statelessness has been recorded in official documents or systems in other procedures, such as asylum or immigration applications and decisions, so that when they apply to naturalise or for integration assistance, it is already recorded that they are stateless and this will not pose a barrier for them.²⁹

In Türkiye, there is no facilitated route to naturalisation for stateless people. Stateless people may apply for Turkish citizenship under the general conditions established in law (Article 11 of the TCL). Accordingly, foreigners who meet the following conditions are eligible to acquire Turkish citizenship upon a decision by the MoI:

- Being of the legal age of consent, with the capacity to distinguish according to their national legal system or Turkish law if they are stateless.
- Maintaining continuous lawful residence in Türkiye for five years.
- Confirming with their behaviour that they have decided to settle in Türkiye.
- Not having any diseases that pose a risk to public health.
- Demonstrating good moral character.
- Proficiency in the Turkish language.
- Having a source of income or occupation in Türkiye to sustain their livelihood.
- Not having been absent from Türkiye for more than 12 months before the application date.
- Not having any conditions that could be considered a threat to national security and public order.

Stateless people who have undergone the SDP and have been issued a Stateless Person Identification Document may seek Turkish citizenship by meeting these criteria specified in the law. The duration of their stay in Türkiye as holders of Stateless Person Identification Document counts towards the period of five years of continuous lawful residence that is required to acquire Turkish citizenship (Article 50 (3) of the LFIP).

According to TPR, individuals with temporary protection from Syria are explicitly ineligible to apply for Turkish citizenship through the standard procedure (Article 25 of the TPR). LFIP lacks provisions for naturalisation for international protection applicants and status holders.

Moreover, individuals aiming to obtain Turkish citizenship through the standard procedure are subject to a preliminary investigation (Article 16 of the RTCL). This inquiry evaluates whether

²⁸ There is a parallel provision for refugees in the 1951 Refugee Convention (Article 34).

²⁹ Further information about naturalisation, especially for stateless refugees, is available on the [Stateless Journeys site](#).

the applicant fulfils the conditions prescribed in the law for acquiring Turkish citizenship, including having the intention to settle in Türkiye. However, as stated in the relevant provision, asylum seekers (which includes international protection applicants and status holders and beneficiaries of temporary protection) are categorically considered not to possess the intention to settle in Türkiye (Article 16 (2) (c) of the RTCL).

Holders of stateless person status are exempt from providing certain documents in the application procedure if they do not possess them. In such cases, this situation is reported to the Ministry of Interior, and subsequent steps are taken based on the received instructions. If the MoI instructs that the document, which the stateless applicants cannot provide, should not be requested, a written declaration from the individual concerned will be necessary. This declaration should contain all the pertinent information that would have been included in the documents in question (Article 39 RTCL).

11. HELP FOR STATELESS PEOPLE IN TÜRKIYE

EUROPEAN NETWORK ON STATELESSNESS (ENS)

ENS is a civil society alliance of over 180 organisations and individual experts in 41 European countries. ENS is committed to breaking the cycle of statelessness and ensuring that the rights of everyone living in Europe without a nationality are fully respected. ENS coordinates awareness-raising and advocacy projects and campaigns aiming to protect the rights of stateless people, promote realisation of the right to a nationality, end childhood statelessness, and raise awareness about the rights of minorities in terms of statelessness, migratory statelessness, and the arbitrary detention of stateless people. You can [contact the network](#) if you are looking for more detailed information about statelessness. You can also [subscribe to ENS's newsletter](#) and find out about [joining the network](#).

REFUGEE RIGHTS TÜRKIYE (RRT)

Refugee Rights Türkiye (RRT), Mülteci Hakları Merkezi (MHM) in Turkish, a member organisation of the European Network on Statelessness (ENS), is an NGO based in Istanbul. RRT operates field offices strategically located in Edirne, Van, and İzmir, which are key points along migration routes. The organisation primarily offers specialised legal information and assistance services to asylum seekers and individuals in immigration detention within Türkiye. In addition to these services, RRT provides training, reference materials, and expert support to lawyers specialising in refugee law, Turkish migration and asylum procedures. Furthermore, RRT engages in advocacy efforts to enhance Türkiye's migration and asylum legislation and policies, aligning them with international standards. It is important to note that all services offered by Refugee Rights Türkiye are provided free of charge. If you are in need of legal assistance regarding statelessness, please feel free to [reach out to RRT](#).

12. RESOURCES

The following resources provide valuable insights into the issue of statelessness in Türkiye from various perspectives, including legal, sociological, and policy-related aspects.

- Nimet Özbek Hadimoğlu, Barış Teksoy. Vatansızlığın Azaltılmasına Dair BM Sözleşmesi (1961) Karşısında Türk Vatandaşlığı Kanunu [The Turkish Citizenship Law Towards the UN 1961 Convention on the Reduction of Statelessness]. Türkiye Barolar Birliği Dergisi 2013 (107): <http://tbbdergisi.barobirlik.org.tr/m2013-107-1294>.
- Güngör, Gülin. Vatansızlığın Azaltılmasına Dair Birleşmiş Milletler Sözleşmesinin bazı hükümlerinin 5901 sayılı Türk Vatandaşlığı Kanunu üzerindeki etkisi [The impact of some provisions of the United Nations Convention on the Reduction of Statelessness on the Turkish Citizenship Law No. 5901]. Ankara Üniversitesi Hukuk Fakültesi Dergisi 63.3 (2014): 479-508: <https://dergipark.org.tr/tr/download/article-file/622673>.
- Yeşim Mutlu. "Hâlâ Birisiyim Ama Daha Azım": Çocuğun Yüksek Yararı İlkesi, Türkiye'de Yaşayan Mülteci Çocuklar ve Vatansızlık Riski ["I am Still Someone, but Less": The Principle of the Best Interest of the Child, Refugee Children Living in Türkiye and the Risk of Statelessness] inside Mültecilik ve Vatandaşlık: Göç Çağında Aidiyet, Haklar ve Gelecek Sorunu [Refugees and Citizenship: Belonging, Rights and the Question of the Future in the Age of Migration] (eds. Sıtkı Karadeniz, Nazmi Çiçek). Mardin Artuklu Üniversitesi Yayınları. Mardin, 2021: https://www.artuklu.edu.tr/dosyalar/goc_uygulama_arastirma/YAYIN/Mu%CC%88ltelik%20ve%20Vatandas%CC%A7l%C4%B1k%20.pdf.
- Yeşim Mutlu. Disowning citizens: arbitrary revocation of citizenship and statelessness in the paternalist Turkish state. Thesis (Ph.D.) Graduate School of Social Sciences. Sociology., Middle East Technical University, 2019: <https://open.metu.edu.tr/handle/11511/45270>.

◀ STATELESS JOURNEYS ▶

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

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

<https://statelessjourneys.org>



European
Network on
Statelessness

Refugee
Rights
Türkiye

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

Refugee Rights Türkiye (RRT), Mülteci Hakları Merkezi (MHM) in Turkish, is an NGO based in Istanbul. The organisation primarily offers specialised legal information and assistance services to asylum seekers and individuals in immigration detention within Türkiye. All services offered by Refugee Rights Türkiye are provided free of charge.
<https://www.mhd.org.tr/en/>

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