

Statelessness and refugees in Serbia

Country Briefing



WHY IS STATELESSNESS RELEVANT TO THE FORCED DISPLACEMENT DEBATE IN EUROPE?

Statelessness is a hidden problem affecting many refugees arriving in Europe. According to [Eurostat](#), of the four million people who applied for asylum in the EU in 2015-2018, more than 115,000 were recorded as 'stateless', of 'unknown nationality', or their nationality was recorded as 'Palestine'. Many more come from countries with problematic nationality laws, such as Syria, Iraq, Somalia, Iran, Eritrea or Sudan, where gender discrimination or state succession means they or their children are at risk of statelessness. People affected by statelessness face discrimination if reasonable accommodation is not made for their nationality problems in international protection procedures and the provision of essential services. Most countries in Europe are inadequately prepared to respond: only a handful have procedures in place to determine who is stateless on their territory and grant them the specific rights enshrined in international and regional law with respect to the protection of stateless people and the right to a nationality.

WHAT IS THE REFUGEE CONTEXT IN SERBIA?

Serbia is primarily considered a transit country by refugees in Europe. The closure of the Balkan route in 2016 prompted a significant decrease in the number of registrations and asylum applications. Serbian Government data records that in 2015, 579,518 individuals were registered at entry and 586 asylum applications were lodged. In 2017, the numbers dropped to 5,153 registrations and 193 asylum applications. Most applications were suspended as applicants left the country after lodging their application. Among the 5,153 applications in 2017, 2,292 were minors and 850 were women. In 2015 and 2016 too, more than 50% of applicants were women and minors. In 2017, the top recorded countries of origin of asylum applicants were Afghanistan, Iraq, Pakistan, Syria and Iran. Challenges highlighted by civil society include the lack of consistent recourse to interpreters during registration, the lack of state-funded legal aid, the practice of recording country of origin as country of nationality and the absence of consideration of statelessness issues.

WHAT IS THE LEGAL SITUATION FOR STATELESS PEOPLE IN SERBIA?

Serbia is state party to the two UN statelessness conventions (1954 Convention on the Status of Stateless Persons and 1961 Convention on Prevention and Reduction of Statelessness), but not to the European Convention on Nationality. It has ratified all other relevant international and regional human rights instruments with no reservations and these have direct effect. Serbia does not have a dedicated statelessness determination procedure or any other mechanism to identify and determine statelessness. However, the status of stateless people is enshrined in law and rights deriving from it include travel documents, right to work, social security, education and protection against discrimination, but without a procedure to determine who is stateless, rights are rarely granted in practice. The 1954 Convention requires state parties to facilitate naturalisation for stateless people, as a solution to their statelessness, to grant them a nationality as soon as possible. In Serbia, there is no facilitated naturalisation procedure for stateless people. Serbia has safeguards in its nationality law to prevent childhood statelessness, but there are challenges relating to implementation in practice. For further information on statelessness in Serbia, see the [Statelessness Index country page](#).



WHY IS STATELESSNESS RELEVANT TO THE REFUGEE RESPONSE IN SERBIA?

Although there is no reliable data on statelessness among refugee arrivals in Serbia, according to actors on the ground, populations affected by statelessness are present among arrivals and the most commonly encountered include *bidoon* from Kuwait, Hazaras from Iran and Rohingya from Myanmar. Some of the key statelessness-related challenges in the Serbian context are highlighted below.

Arrival & Registration

- Nationality problems are not being accurately identified and recorded on arrival. Individuals are often ascribed their country of origin as country of nationality.
- There is a general lack of understanding of statelessness issues by stakeholders, mainly because Serbia is perceived by all as a transit country and documentation is not required to access basic services in transit camps.
- The failure to identify or record statelessness, leads to registration with imputed nationality, which can later be difficult to correct.

Determination of refugee status

- A lack of clarity about someone's nationality can impact on the assessment of credibility.
- The absence of state-funded legal aid and the inconsistent recourse to interpreters means decisions about how nationality status is recorded are rarely challenged.

Immigration detention

- Since there is no procedure to determine who is stateless, and a lack of free legal aid, statelessness is missed or not adequately addressed, which may lead to a risk of prolonged and/or arbitrary detention.
- There appears to be a commonly held belief that individuals can be subject to return procedures and removed without proper determination of nationality status.

Child's right to a nationality

- Children born in Serbia are exposed to the risk of statelessness.
- The lack of awareness of the implications of statelessness and gender discrimination in nationality laws leads to inconsistent implementation of the safeguard to grant nationality to otherwise stateless children born in the country.
- Children's nationality is routinely registered as the same as their parents on the basis of the parents' oral statement during the police registration without examining whether a parent can actually confer a nationality to the child.



Naturalisation

- Naturalisation is not facilitated for stateless people in Serbia. They must meet general residence, language, income and other requirements for naturalisation, which can be prohibitive for stateless people.

WHO ARE THE RELEVANT REFUGEE RESPONSE ACTORS IN THE SERBIAN CONTEXT?

Stage	Key actors and roles
Arrival & registration	<ul style="list-style-type: none"> • The police: registers new arrivals to Serbia and refers them to an Asylum/Reception Centre. During the registration procedure interviews are conducted without proper interpretation; Refugees/migrants usually arrive without passports/documents; Police records the personal details, as well as the country of origin based on the information provided by the individual in the registration process; Police asks for the country of origin and records it in the registration certificate as nationality (not country of origin); Statelessness or the risk of statelessness is not identified or recorded) • NGOs provide relevant information to people about the registration and asylum procedure and assistance with the registration (e.g. Praxis assisted 1,470 refugees/migrants out of 5,153 who registered in 2017)
Support during asylum process	<ul style="list-style-type: none"> • NGOs provide legal aid to asylum seekers, there is no free legal aid provided by the state
Determination of refugee status	<ul style="list-style-type: none"> • Asylum Office • Asylum Appeals Commission
Detention & returns	<ul style="list-style-type: none"> • The Police • Misdemeanour Court • Shelter for foreigners
Birth registration	<ul style="list-style-type: none"> • Registry offices: Even though the rules and regulations prescribe that parents who are foreign nationals need to submit their passports (or at least the mother of the child) in order for their child to be registered at birth in Serbia, the registry offices in practice show flexibility by accepting registration certificates issued by the police (with no photo) instead of passports (in case the parents do not have passports). This means that children born in Serbia have access to birth registration and are provided with a birth certificate in Serbian. The child's nationality is routinely registered as the nationality of their parents. They are also provided with an internationally recognised birth certificate, but this contains no information on the nationality of the child.
Naturalisation	<ul style="list-style-type: none"> • Ministry of Interior • Administrative Court



WHAT ARE THE PRIORITY AREAS FOR ACTION TO ADDRESS STATELESSNESS IN THE SERBIAN CONTEXT?

- A statelessness determination procedure and protection regime should be established in law to enable Serbia to meet its international obligations under the 1954 Convention and reduce the risk of arbitrary detention.
- Procedural clarity and clear guidance is required to support the accurate identification, registration and recording of statelessness and nationality problems among refugee arrivals.
- Access to birth registration (and an internationally recognised birth certificate) must be guaranteed for all children born in Serbia irrespective of the status of their parents, and the child's right to a nationality upheld in practice.
- Safeguards in Serbian nationality law must be implemented in practice to prevent childhood statelessness arising from the current refugee context in Serbia.
- A facilitated route to naturalisation should be implemented and barriers to naturalisation removed for stateless persons in Serbia in line with the 1954 Convention.

STATELESSNESS: THE BASICS

A stateless person is defined in the 1954 Convention on the Status of Stateless Persons and international customary law as "***a person who is not considered as a national by any State under the operation of its law***". It is someone who does not have a nationality of any country. Some people are born stateless, while others become stateless over the course of their lives. Although stateless people may sometimes also be refugees, the two categories are distinct in international law. Some of the **main causes of statelessness** are gaps in nationality laws, discrimination, forced displacement, state succession, restrictive administrative practices, and arbitrary deprivation of nationality. Statelessness is a hidden problem due to the lack of reliable data on stateless populations. UNHCR reports figures for only 3.9 million of the estimated 10 million stateless people around the world in its Global Trends Report 2017. Being affected by statelessness often means not having a birth certificate or any other legal documentation, not having or being able to pass on a nationality to your children, not being able to access formal education and other services, not being able to travel, and facing many more legal and administrative barriers. To be stateless is often to be 'legally invisible'.

ABOUT THIS BRIEFING

This briefing is published by the [European Network on Statelessness](#) and the [Institute on Statelessness and Inclusion](#) as part of the #StatelessJourneys project (<https://statelessjourneys.org>) examining the relationship between statelessness and forced migration in Europe. It is based on findings from scoping research in Greece, Serbia and the Netherlands, and questionnaires completed by ENS members in other European countries. It is not intended to provide a comprehensive picture, but rather to draw attention to some of the main challenges relating to the intersection of statelessness and forced migration, point to areas for further research, and make recommendations for action to address these challenges at national and regional levels.



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

#StatelessJourneys is a joint project between the European Network on Statelessness and the Institute on Statelessness and Inclusion. It was designed to expose gaps, identify solutions and deliver evidence-based advocacy to secure the protection of stateless refugees and migrants, and to prevent new cases of statelessness arising in Europe.

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



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