STATELESS JOURNEYS

Addressing statelessness in Europe's refugee response

Gaps and Opportunities

European Network on Statelessness

Institute on Statelessness and Inclusion

CONTENTS

Cover photo: Greece. Accommodation scheme transfers Palestinian-Syrian family from residential container to Athens apartment; © UNHCR/Alfredo D'Amato

INTRODUCTION

Statelessness is an overlooked and often invisible feature of the forced migration context in Europe. Actors involved in the refugee response are increasingly discovering that some of the men, women and children they work with face nationality problems. 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'.[i] Many more refugees come from countries with problematic nationality laws, such as Syria, Iraq, Somalia, Iran, Eritrea or Sudan, meaning they or their children are at risk of statelessness.[ii] People affected by statelessness risk discrimination on the grounds of their statelessness if reasonable accommodation is not made for their nationality problems in international protection procedures and the provision of essential services. Yet, most countries in Europe are inadequately prepared to respond. Only a handful of European States have statelessness determination procedures in place, risking violations of the specific international and regional obligations held by States towards stateless people and in respect of the right to a nationality.[iii]

Although actors involved in the refugee response are beginning to recognise the challenge that statelessness poses in the context of current forced migration trends in Europe, little has been published on this to date and statelessness rarely appears on the migration and asylum policy agenda.[iv] To address this gap, in 2017, the European Network on Statelessness (ENS) and the Institute on Statelessness and Inclusion (ISI) set out to examine the relationship between statelessness and forced migration in Europe, to build links with refugees affected by statelessness, and to interrogate the knowledge and attitudes of key regional and national stakeholders involved in the response to forced displacement in Europe. The aim of the #StatelessJourneys project is to generate an evidence base to inform the design and dissemination of analytical and practical tools for advocacy, capacity-building, awareness-raising and community engagement, to protect the rights of stateless refugees and prevent new cases of statelessness arising in the migration context in Europe.

In 2017-18, project partners carried out scoping research to better understand the extent of the challenges. A questionnaire was shared with ENS members, which generated a snapshot of key issues in 15 countries. This was supplemented by a pilot study in three of these countries: Greece, Serbia and the Netherlands. Interviews and focus group discussions were held in each country and at regional level (March-June 2018) to capture information on the knowledge and attitudes of four key stakeholder groups: refugees affected by statelessness, civil society actors, national authorities, and regional authorities. This briefing summarises the research findings, outlining key emerging challenges, gaps and opportunities for action to protect the rights of stateless refugees and prevent new cases of statelessness arising in the context of forced migration in Europe. A series of awareness-raising, training and advocacy tools, including position papers on countries of origin of refugee populations affected by statelessness; country briefings on statelessness and forced migration in European countries; webinars; podcasts; and other advocacy tools are available for download and wider use from the Stateless Journeys website: https://statelessjourneys.org.

OVERVIEW OF THE CHALLENGES

You are tired, and you want to go somewhere to save yourself, but there is nowhere to go.

-- Kuwaiti bidoon interviewed in the Netherlands

This section provides a process-based overview of the challenges emerging from the research. Each country faces its own specific challenges, but five key common areas in which statelessness is impacting on the forced migration context in Europe are highlighted here. Many of these relate to issues that have been explored by ENS and its members from a statelessness lens, including the lack of statelessness specific protection systems in Europe[v], the prevention of childhood statelessness[vi], and the risk of arbitrary detention of stateless people.[vii] Building on this, the #StatelessJourneys project for the first time approaches these issues from the perspective of forced migration trends in Europe, examining the impact of statelessness on the refugee experience and the European response to forced migration through this specific lens.

Registration
Failure to identify and register statelessness on arrival leads to registration with imputed or 'unknown' nationality.

The lack of a procedure to identify and register stateless people on arrival is leading to registration with either imputed or 'unknown' nationality. Reasons for this included that there is limited awareness of statelessness among officials; most States do not have a statelessness determination procedure to which officials can refer individuals if they claim to be stateless; there is a lack of available information about who may be stateless or at risk of statelessness, and a lack of training and tools to facilitate identification and registration. Concerning practices stemming from this failure to identify statelessness included officials conflating country of origin with country of nationality or recording an imputed nationality based on language or accent, or new arrivals feeling pressurised to 'produce' a nationality on demand. In some countries, appealing an incorrect assessment of nationality is not possible; in others, the process to amend an incorrect nationality record can be complex. Not identifying statelessness means that stateless people will not be afforded their rights under international law, nor will their nationality status be factored into subsequent treatment by the authorities. Imputed nationality can also have specific consequences with regards to return, for example, or preventing childhood statelessness.

Refugee Status Determination
Statelessness being missed or inadequately addressed in international protection procedures may lead to delays or a higher risk that protection is refused.

The failure to identify and register statelessness does not only affect the prospects of nationality problems being addressed but can also have an impact on the outcome of refugee status determination procedures. It was reported in some countries that the lack of identification can lead to a higher risk of refugee protection being refused. Reasons for this included that doubts about a

person's identity and/or nationality can impact negatively on the assessment of credibility. Where statelessness is identified, a claim that is based significantly on an individual's statelessness may not be perceived by States as grounds to grant asylum or may delay the determination procedure as decision makers lack the relevant necessary expertise.

Detention

Statelessness being missed or inadequately addressed in international protection procedures may increase the risk of prolonged or arbitrary detention.

The nature of statelessness can mean that a stateless person has no country to which they can return. If a person's statelessness has not been identified, they can end up subjected to repeated and prolonged detention and removal proceedings. This practice appears to be widespread and was reported in several countries. The assumption on the part of the authorities that someone can be removed even where their nationality is unknown or imputed, has a significant impact on the potential for prolonged and/or unlawful or arbitrary detention. Additionally, even where statelessness is recorded, the lack of understanding about the implications of this among officials may mean that individuals remain at risk, as States may continue to subject them to futile removal attempts regardless. In some cases, children can also be subjected to prolonged immigration detention.

The child's right to nationality

Nationality problems being missed or inadequately addressed heightens the risk of children being born stateless in Europe.

Many European countries do not have full safeguards in their nationality law to prevent childhood statelessness.[viii] The risk to children of refugees born in exile is particularly acute as they may be unable to prove where they were born or who their parents are, essential for establishing nationality. The failure to identify and register nationality problems leads to States being unaware or not accepting that a child born on their territory may be stateless. Children may be incorrectly assigned a parent's nationality at birth without verifying whether parents can confer their nationality, or whether the child has a right to the nationality of the country of birth if they would otherwise be stateless. Several countries reported issues relating to the child's right to nationality, including lack of awareness among officials of conflicting nationality laws, or gender discrimination preventing conferral of nationality, lack of legal safeguards to grant nationality to otherwise stateless children born on the territory, and inconsistent implementation of these safeguards.

Routes to naturalisation

Stateless people cannot meet the requirements for naturalisation or there is no facilitated route to naturalisation for stateless people.

Challenges in accessing naturalisation procedures were reported in several countries. Certain documents may be required to be eligible for naturalisation and there may be no flexibility on the part of officials for individuals who cannot provide these. For example, a birth certificate, passport or proof of renunciation of a former nationality may be required for naturalisation. Even if statelessness is identified, unachievable conditions are at times enforced. Additionally, general eligibility criteria such as documentation required or cost for the procedure may be very difficult for

a stateless person to meet, which is why the need for facilitated routes to naturalisation is enshrined in the 1954 Convention on the Status of Stateless Persons. However, it was reported in some countries that this facilitation either does not exist or is not implemented in practice.

STATELESS REFUGEES

Profile of interviewees

Two focus group discussions were held with representatives of communities affected by statelessness including Palestinian, Kurdish, Roma and undocumented migrant-led organisations, as well as cultural mediators from Farsi, Pashto, Urdu, Dari, and Arabic-speaking backgrounds. 12 individual interviews with stateless refugees were also carried out, four in each of the three research countries (10 men and two women). Some interviewees were travelling alone, others were with family members or intended to join family in Europe. In Greece and Serbia, all regarded their stay as temporary and planned to continue their journey to another European country. In the Netherlands, all said their intention was to remain in the country. All self-identified as stateless and came from communities whose statelessness is well documented. Interviews explored the impact statelessness had on their lives in their countries of origin, during their journeys to and in Europe. Although interviewers did not explicitly ask about reasons for leaving, interviewees articulated these in some cases as being directly linked to their statelessness, while others had fled for similar reasons as citizens. All interviewees had lodged or intended to make a claim for asylum in a European country. This research did not explore issues relating to statelessness in the context of resettlement, family reunion, or any other routes to protection.

Identification and registration

Correct identification and registration as a stateless person were considered important by all interviewees. Some were unsure at what stage it was safe to inform the authorities of their nationality status, and others did not know the relevance of their statelessness to their status in Europe, but at the time of interview all were aware that identifying their nationality status in the long-term was important. However, the interviews revealed that the process of identification is clearly very challenging.

In Greece, all participants said their nationality status was wrongly registered by authorities who either did not understand that someone could be stateless, did not believe them, or both:

> *'They registered me as Syrian and I didn't tell them that I am maktum[ix] because I thought this was not a good idea. In a later interview, I tried to explain that I am stateless and had many problems in Syria, but they didn't really listen or didn't understand.' (Syrian Kurd interviewed in Greece)*

> *'I tried to show the hospital record during the first reception interview, but they were not interested. They said that we are Iraqis, I explained that we are not, that we are bidoon from Kuwait.' (Kuwaiti bidoon interviewed in Greece)*

'During the initial registration, they wanted to register us as Bangladeshis. We all said no, we are not from there. They kept us there for five or six hours while they checked some things on the computer. I think they searched for information about Myanmar on the internet. After eight hours, they agreed to register us as from Myanmar.' (Rohingya from Myanmar interviewed in Greece)

The Syrian Kurd interviewee attributed his precarious situation (subject to return to Turkey) to the failure of the authorities to recognise the implications of his stateless status. The bidoon interviewee noted that authorities had failed to understand that his Kuwaiti residence paper (stating he was born in Kuwait but labelled 'Iraqi' by the Kuwaiti authorities) was not evidence of Iraqi nationality, but rather of the systemic exclusion from Kuwaiti citizenship of the bidoon. Similarly, in the case of the Rohingya interviewee, the authorities were clearly unaware of a well-documented stateless population, exposing significant knowledge gaps in relation to the profiles of refugees who might be affected by statelessness on the part of those responsible for registering new arrivals.

In Serbia, there was little interest on the part of refugees or the Serbian authorities to register people's nationality details correctly, nor did interviewees perceive this to be an issue, as their intention was to remain only a few days in the country. This raised questions about the scope for identifying statelessness in what is in the current context understood purely as a transit country by most refugees intending to claim asylum elsewhere in Europe.

In the Netherlands, however, significant challenges around identification and registration of statelessness were raised by interviewees:

'[In one municipality] they recorded me as 'nationality unknown'. So, when I received my permit ...it also stated, 'nationality unknown'. I remained with this registration for a year. My lawyer started a procedure for me to change the registration. This was very difficult in the area where I stayed at the time. Then I moved to another municipality, and there we succeeded in changing my registration to 'stateless'. So, some municipalities have knowledge on the matter, and others do not. Now I'm registered as stateless in [municipality] and my documents state 'stateless'.' (Palestinian from Lebanon interviewed in the Netherlands)

In this case, the interviewee had initially been registered as stateless in the municipality where she had claimed asylum. However, when she moved away and needed to register again in a new area, it become more problematic. Her story highlights an inconsistency in understanding and procedure relating to the identification and registration of statelessness at local level in different parts of the country.

Another interviewee faced even more complex and frustrating challenges:

During the first and second [asylum] procedure I was referred to as 'Kuwaiti', even though I had documents proving my statelessness and [the municipality] registered me as stateless. Every paper from the [immigration authorities] was different: sometimes it said 'Kuwaiti', sometimes 'stateless'. In the third asylum procedure when I received the

acceptance letter to sign, it said again 'Kuwaiti', which was later changed on my official ID. In the [municipality] they said that they can only register me as stateless if I have a passport as proof, otherwise they would register me as 'nationality unknown'. (Kuwaiti bidoon interviewed in the Netherlands)

There appeared to be less understanding among officials in the Netherlands of the nationality problems faced by bidoon from Kuwait, than Palestinians for example. This may be due to a longer history of migration of Palestinians to the country and more general societal awareness of their situation. In the case of the bidoon interviewee, it was only due to his persistence and research - including reading a UNHCR study on statelessness in the Netherlands - that he was able to persuade the municipality to seek advice from the immigration authorities and finally register his statelessness correctly.

The resources and persistence required by interviewees to successfully pursue registration as stateless is far beyond what can or should be expected. The lack of knowledge and importance given to statelessness by the authorities in all three countries was apparent and caused significant challenges for regularisation of status and access to rights. Authorities tended to expect proof of someone's statelessness, which rarely exists. Most interviewees had no documents at all, with some perceiving this to be key to how they were treated by the authorities:

'Maybe the police would have been less suspicious of me in both Greece and Turkey if I had had a proper document.' (Syria Kurd interviewed in Greece)

It is particularly concerning that the women and men interviewed for this research are from communities whose statelessness is well documented. The lack of understanding and interest on the part of the authorities across the research sites, even towards these well-known stateless populations, is evident. This serves to highlight the urgent need to address how statelessness is understood in the context of forced migration in Europe and to examine the challenges facing not only these well-known populations, but also less well-known stateless groups, as well as those who lack a nationality or are at risk of statelessness due to their specific and individual circumstances.

The impact of being stateless and a refugee

Interviewees articulated the impact of statelessness both on their lives in their countries of origin and on their experiences as a refugee in Europe. The difficulties they had faced in their countries of origin included not having any right to documentation, restricted access to formal education, lack of access to healthcare, no right to work, fear of the authorities, and a constant fear of detention. For many, the impact of limited access to schooling meant they were either illiterate or semi-literate, which in their view significantly impacted on their experiences in Europe. Three of the interviewees in Greece said this had influenced their ability to learn Greek and understand the bureaucracy around them. For them, a few hours a week of classes in Greece was the first time they had accessed any structured education. The bureaucracy encountered by interviewees was complicated and challenging, and even more so for people who have been excluded from state bureaucracy and had limited access to education over the course of their lives.

In many cases the impact of statelessness on their journey to and through Europe was expressed by interviewees as a continuation of the exclusion and denial of rights experienced in their countries of origin. Most did not articulate any specific impact on their journey linked to their statelessness, though the majority had travelled irregularly, without any documentation. Most said they had not encountered any authorities (until reaching Turkey in the case of those who took this route to Greece or Serbia) nor sought support from services or NGOs. In no instance had their statelessness been identified by any authority prior to arriving in Europe. Some reported push-backs on route between Turkey and Greece but perceived their treatment by the police to be the same as other refugees. Where their journeys may have differed from others was in their length. For example, the Rohingya interviewee in Greece had an incredibly long journey of some four to five years, spent evading state authorities due to his lack of documentation and legal status, and trying to survive from informal work.

The impact of statelessness on settlement in Europe was discussed by refugees interviewed in the Netherlands. Here interviewees perceived key differences between the treatment of stateless people with and without a residence permit. Interviews did not explore in detail how statelessness may affect the decision to grant residence, but one interviewee who was refused asylum noted the Dutch Government's failure to understand statelessness as grounds for asylum where he felt this was a key factor in his fear of persecution. For those without a residence permit, life was perceived to be comparable to that of any other person refused asylum in the Netherlands without access to healthcare, work, study, or social security. One interviewee spoke of the profound impact of 'uncertainty' about his status and future on his mental health, which mirrored the uncertainty he had faced as a stateless person his whole life. Treatment in Europe was articulated as a continuation of the exclusion and denial of rights perpetrated by the State of origin. Another interviewee granted refugee protection in the Netherlands did not perceive her statelessness to have a significant impact on her life. Despite the initial challenges in registering her status and obtaining documents, she felt she had the same rights and duties as any other person in the Netherlands and looked forward to obtaining Dutch citizenship through facilitated naturalisation as a recognised stateless person.

Relationships with other stakeholders
National and regional authorities
Due to the very nature of statelessness, the relationships stateless people have with authorities are often characterised by mistrust, fear and even violence. Experience from countries of origin is likely to impact on how stateless refugees perceive and interact with authorities in Europe. Interviewees in all research sites articulated challenges in these interactions. Some conveyed a lack of trust, but most common of all was the feeling that authorities did not - or were not willing to - understand their statelessness.

In Greece, there was a high level of distrust of the regional authorities encountered there, and a feeling that agencies were 'not on their side'. Information from registration officers, camp officials, and the police was not necessarily trusted, particularly since a new procedure was introduced allowing people to be taken into custody to confirm their identity:

'I didn't speak to anyone apart from my friends who I can really trust. I didn't want to explain my situation to anyone because they will be angry at me and say I am a terrorist.' (Syrian Kurd interviewed in Greece)

In Serbia, most participants said they had little interaction with other stakeholders as they invariably saw their stay in the country as transitory, and in most cases had arrived very recently. One described an interaction with the police in which there was no effort to interrogate his status or nationality:

'When I entered Serbia and police caught me, they took me to police station and registered me there. They just asked me my name, age and country where I am from and gave me an 'intention to seek asylum' document. Police didn't make any problem because I didn't have documents.' (Afghan from Iran interviewed in Serbia)

In the Netherlands, contact with national authorities was characterised not by fear, but rather by frustration and a feeling that officials did not have enough knowledge about statelessness to adequately assist them. One interviewee said the municipalities did not understand the situation facing Palestinians, another expressed concern at municipalities' tendency to register people as 'nationality unknown' rather than exploring the possibility they may be stateless. Another described his relationship with the Dutch authorities as frustrating and bureaucratic:

'[The authorities make] absurd decisions for which no one is responsible. The municipality also had no clue and could not provide any information. They are not interested in statelessness. Every official has a form that needs to be filled in, more than that, they don't care.' (Stateless person from Former-USSR interviewed in the Netherlands)

Civil society actors

Most refugees said they had limited interaction with civil society actors and some expressed frustration at the lack of community groups or NGOs working specifically with stateless people. In Greece, there was an appreciation for the assistance of community-based actors in Lesvos, for example, including those providing legal assistance, but these relationships were often temporary and limited. NGOs providing legal advice in the Netherlands were also mentioned, but one interviewee saw these as 'too bureaucratic' and difficult to engage with. Palestinian and Kurdish grassroots organisations in the Netherlands appeared to be well-established and active, but some interviewees expressed a desire for a stateless community organisation to provide support, which they saw as lacking and contributing to their isolation:

'[We need] a community where we make plans, exchange experiences, exchange ideas and information or even organise a demonstration for our neglected cause.' (Kuwaiti bidoon interviewed in the Netherlands)

In Serbia, participants had not tried to engage with or approach NGOs for assistance but said they got information and advice from family and community members in other European countries. Some said they were aware that UNHCR could help them but had not accessed or did not know how to access their support.

CIVIL SOCIETY ACTORS

In addition to the focus group discussions with community representatives and individuals working in specific cultural mediation roles, eight individual interviews were carried out with civil society representatives of national and international NGOs, lawyers, and grassroots voluntary organisations (three in Greece, two in the Netherlands, and three in Serbia). Whereas the focus group discussions aimed to elicit collective issues from representatives of communities affected by statelessness, individual interviews with civil society actors sought to better understand the level of knowledge, capacity and attitudes towards statelessness among this key group of stakeholders, as well as their understanding of the challenges facing stateless refugees in each of the research sites.

Knowledge of statelessness and nationality issues

Civil society actors noted a general lack of understanding of statelessness and nationality issues among their staff and stakeholders. Across the different research countries, most agreed that more information was needed about statelessness and the protection of stateless refugees in the contexts they were working to enable them to assist affected individuals. There was often a fundamental misunderstanding of what statelessness is, as well as a lack of understanding of the key causes, such as conflicts in nationality laws. Many had never considered how nationality laws in countries of origin might impact on the status of refugees or their children and one interviewee admitted they did not know that gender discrimination prevented many refugee women from conferring their nationality to their children.

Among focus group participants, those who represented communities directly affected and those who worked with people from countries with more well-known stateless populations – such as Syrians – were more aware of statelessness than those working with Afghans, for example. Participants in the Netherlands could articulate clearly the challenges their own communities faced but were less aware of challenges faced by other stateless communities in the country. Among Serbian participants, the conflation of being *from* a country and being *a national* of that country was common. Statements such as '*they need to visit their embassy to get documents*' or '*getting nationality should not be a problem*' showed this knowledge gap, as did the more general conflation of statelessness with being undocumented and a perception that it is '*more of an issue in Europe*' because of greater bureaucracy or a greater need '*to be registered*'.

Among staff of larger refugee support organisations, there was a basic understanding that statelessness could be a major problem, but little programmatic work addressing the issue, and often a belief they had not encountered stateless people, or it was not relevant to their work. Some said they had never met a stateless person, and one said they did not think statelessness existed in Africa. Greek civil society was generally aware of the different stateless profiles encountered there (specifically bidoon and Palestinians), but had less of an understanding of who else might be affected. Individual lawyers in both Greece and the Netherlands had a much deeper understanding of the issue and were able to articulate clearly the challenges facing stateless refugees in their context. However, even these specialists who deal with statelessness regularly, admitted that their knowledge of the impact of conflicts in nationality laws was limited.

Insights into the impact of statelessness

In Serbia, most civil society actors interviewed had limited insight into the impact of statelessness as they said they had not encountered stateless refugees. However, based on their knowledge of the

Serbian context, participants recognised that return procedures could be problematic for people without a State to return to; that children born on the move, especially to lone mothers, could face problems confirming or obtaining a nationality; and that family reunion could be problematic for those who had no proof of their family relationships. In Greece, civil society actors who worked with stateless refugees reiterated some of the key issues raised by stateless refugees interviewed, including delays in asylum determination, procedures being influenced by '*bias in the system'*, and the seemingly very common challenge of mis-recording of nationality in registration procedures:

> '*It appears that they are not recording new arrivals as 'stateless' and are more likely to include either the country of origin or country of last residence under the category of nationality.' (INGO interviewed in Greece)*

> '*We have spent a lot of time trying to correct the nationality status of bidoon from Kuwait to 'stateless' after they were registered as 'Iraqi'.' (Volunteer organisation interviewed in Greece)*

In the Netherlands, residence and registration as a stateless person were deemed to be the main challenges that impact on a person's rights to access social security, education, work, family reunion and even public transport. The emotional and psychological impact of statelessness was also discussed by some participants, with one saying it causes '*a lot of anger'* and another that it impacts on a sense of belonging:

> '*This is what you hear very often from stateless people, that they don't belong anywhere.' (Lawyer interviewed in the Netherlands)*

Community representatives in the Netherlands said they felt there was no-one standing up for their rights, that with the lack of knowledge and willingness on the part of the authorities to help them, they had no-one to '*lean on'*, so it was more difficult to organise and find out about their rights.

Key challenges and opportunities

Participants were asked what challenges and opportunities existed for addressing the statelessness related issues they raised in their context. In Greece, civil society actors were distrustful of national and regional authorities, noting '*prejudices of civil servants'* (Lawyer interviewed in Greece) and that statelessness was '*very difficult to address when we don't know how the police and Frontex are operating'* (INGO interviewed in Greece). They noted frequent complaints by stateless people of not being listened to by the authorities and not enough time or resources being invested in decision-making. Capacity-building and awareness-raising with authorities is therefore a key need. Few current activities to address statelessness were mentioned, with little specific programmatic response, but rather individual actors following-up on individual cases where statelessness has been missed or an asylum claim refused. Where opportunities were noted was around work by communities themselves, where use of social media and information exchange on the ground, with the support of legal actors, was critical. It was suggested that more resources should be invested in grassroots initiatives, trusted by affected populations. Another opportunity identified was to link in to the work of the EU Fundamental Rights Agency (FRA):

'[FRA's] work providing oversight to Frontex has sound methodology and they have some very good people.' (Lawyer interviewed in Greece)

The discussion around challenges and opportunities was limited in Serbia by the lack of conscious interaction between stateless refugees and civil society actors, and the lack of recognition of statelessness as being relevant in that context. The larger international NGOs delivering frontline services admitted to a lack of focus on the issue attributing this to people being in transit:

'I never asked them any question about statelessness. All refugees that I have talked to came to Serbia without documents, but that was not recognised as an issue, since they are just transiting.' (INGO interviewed in Serbia)

An opportunity to raise awareness and *'educate ourselves'* about statelessness was identified by NGOs through an established network of agencies supporting refugees in Serbia, who meet regularly to discuss issues arising from their work.

In the Netherlands, some community representatives spoke of research fatigue, lack of scope for reform, and frustration with a Dutch system that *'has no experience with stateless people'* and law that is *'fixed'* and *'not flexible'.* Nonetheless or perhaps due to this perceived inflexibility, suggested solutions focused on awareness-raising with the wider public and through the media rather than direct advocacy with the Government. A statelessness-specific NGO or community organisation to provide support and information about statelessness and to stateless people was also highlighted as a need, as well as more training and capacity-building for organisations and authorities across the country.

NATIONAL AUTHORITIES

A small sample of national authorities were interviewed in each of the three research countries, including two in Greece, one in Serbia, and two in the Netherlands. Although this is a very small sample, and the roles of those interviewed varied, these and discussions with other stakeholders pointed towards common challenges faced by authorities and indicated a need for further exploration of the capacity of officials at regional, national and local levels to address statelessness, and the systems and resources required to do this effectively.

Knowledge of statelessness and nationality issues

Levels of awareness and understanding of statelessness varied among the different officials interviewed, including among those working for the same organisation. One Greek official, for example, had a good understanding of different stateless profiles and already accurately and sensitively identified some of the challenges in responding to statelessness in the context of refugee arrivals. Others were less well-informed and somewhat dismissive, referring to statelessness as *'a niche issue'*, and one senior official articulated views that can only be described as discriminatory. All acknowledged the frequent mis-recording of nationality status on arrival with some highlighting it as a challenge causing procedural complications further down the line and others perceiving it not to be a problem:

'Bidoon from Kuwait are almost always registered as Iraqi, but this is not a problem as we correct it'. (Greek official)

Municipal authorities in both Serbia and the Netherlands demonstrated an understanding of aspects of statelessness as it related to their work, but in the case of the Netherlands in particular, lacked awareness of - and willingness to consider - the bigger picture:

'I do not look at the numbers, this is not interesting for my job. We look at each case individually, not at the bigger picture.' (Dutch official)

'I don't see what problems stateless persons face. That refugees and migrants have problems (especially with obtaining legal stay), that is clear to me, but what kind of problems stateless persons have in addition to this is unknown for me.' (Dutch official)

The Serbian official demonstrated knowledge gained from experience working with the country's in situ population of Roma at risk of statelessness and could already accurately identify potential future challenges among newer refugee populations due to the lack of a statelessness determination procedure and barriers to birth registration. In the case of Dutch officials, a profoundly bureaucratic approach emerged. They described the formalistic constraints of the Dutch population registration system (BRP), appearing resigned to its inflexibility and unquestioning of their role as implementers of the rules, rigid as they may be:

'For us it doesn't matter if someone is stateless or not, it is part of the registration in the BRP that you have to determine what the nationality is... In the end, we are bound to the law, this is the fate of the official.' (Dutch official)

One acknowledged that this '*overly administrated system*' was '*not easy*' and created challenges, suggesting that in trying to meet strict requirements applicants may feel obliged to '*produce documents'* (implying these might be falsified or invalid). Another took a different view, justifying the strict rules on the grounds that individuals had an incentive to claim to be stateless:

'...someone simply wants to be registered as stateless because then they can naturalise to Dutch citizenship quicker and they obtain a number of other rights, so this is for us a reason to look at this group carefully.' (Dutch official)

Lack of procedural clarity

Procedural challenges were identified in all contexts, although these varied in nature. Greek officials noted the issue of mis-recording nationality on registration, and one implied this was intentional. Some described the difficulty and implications of later requesting to change nationality status, for example where cases are transferred from the islands to the mainland, the potential impact on Dublin or family reunion procedures, or the implications for credibility assessment. Procedures for

identifying and recording nationality status did not appear to be clear or consistent, though some attempt was reported to have been made in 2017 to harmonise these functions across different locations and competent authorities. Language barriers and multi-stakeholder teams were factors according to one official who said the use of international staff to carry out interviews and Greek staff to enter data into IT systems was a source of mistakes, as well as interpreters allegedly encouraging applicants '*to just sign*' interview records even if they do not agree with or understand their content. One interviewee implied that procedures for verifying nationality status were straightforward another said '*errors*' were so common that they had two staff dedicated to amending basic data in the system.

The lack of statelessness determination procedures was raised in all three contexts. In Greece, this led to some lack of clarity on the part of officials when asked what would happen if someone identified to be stateless was refused asylum. In Serbia, it was noted as a key gap: "*Serbia does not have a statelessness determination procedure. We can only conclude that they are stateless, but we cannot identify them as stateless.*" In the Netherlands, officials described the detailed procedure for registering a stateless person in the BRP population register as '*a difficult process*', and noted it is only accessible to those with a residence permit and documentation to prove their statelessness ('*without documents, you will never be registered as stateless*'). The lack of clarity around how and who should deal with those who cannot access this procedure was very apparent, as were other procedural challenges, including mistakes by other government departments, lack of expertise in some municipalities, and impossible documentation requirements to access naturalisation procedures even for those who manage to register as stateless. Officials in the Netherlands welcomed proposals for a centralised statelessness determination procedure and highlighted a need for more and better guidance but cautioned against models that could pose additional cost and other barriers.

Access to information and resources

There was a clear need across all sites for information and resources. In both Greece and the Netherlands, officials noted their reliance on limited country of origin information where less well-known stateless profiles are concerned. Officials in the Netherlands made extensive reference to '*checklists*', '*rules*', and '*guidance*' including '*a manual for civil affairs (Handboek Burgerzaken Amsterdam) (for which a lot of municipalities have a subscription) in which a checklist is noted to determine statelessness*'. There appeared to be specific resources available for Palestinian cases, but not necessarily for others:

> *If they are Palestinian, then we know quite well which documents are needed because of guidelines provided by the Association of Civil Affairs and the Handbook Amsterdam.' (Dutch official)*

Nonetheless, officials still referred to the lack of resources and specific information to guide decisions in what is a very complex process, particularly for less common or more complex cases:

> *'The difficult thing about the civil registrations is that Amsterdam has around 180 nationalities, so you need to be able to apply 180 nationality laws... we try to stay up to date on everything, but it can be difficult to find relevant information in specific cases'.*
> *(Dutch official)*

In Greece, all interviewees were able to identify some of the main stateless population profiles, but in some cases lacked detailed understanding, noted a reliance on country of origin information, and raised challenges in identifying less common population groups among applicants from many different countries of origin. The Serbian official noted there was no guidance on statelessness but did not appear to perceive this as an issue: '*we do everything in accordance with the law*'. However, the general lack of information on how statelessness may be impacting on refugees and migrants passing through the country was raised as a challenge:

'For now, stateless refugees are invisible to us'. (Serbian official)

REGIONAL ACTORS

Six interviews were carried out with regional actors (European Council on Refugees and Exiles (ECRE), UNHCR, Frontex, EASO, EU Fundamental Rights Agency, and Refugees Ideas and Solutions Europe (RISE)) to better understand their perspective on the nexus between statelessness and forced migration, and seek their views on a regional response, as well as on what further research, advocacy and capacity-building activities should be prioritised.

Knowledge of statelessness and nationality issues
Knowledge and understanding of statelessness and nationality issues was generally relatively good among the regional actors interviewed, with those working more marginally on statelessness professing to more limited knowledge but still able to articulate how it arose in the context of their work. Several interviewees recognised that there were institutional gaps in knowledge within their own or other regional bodies, and that statelessness had only relatively recently been recognised as of relevance to the refugee response. Even among relatively well-informed individuals, there was a lack of clarity about how best to address statelessness in their work, or whether they were best placed to do so. Knowledge of statelessness tended to be limited to awareness of some of the more common profiles of stateless populations, such as Kuwaiti bidoon, Syrian Kurds, or Palestinians. There was generally less understanding of how and why statelessness may occur in different contexts, or of nationality problems that may impact on smaller groups of people from other countries, their children or spouses.

ECRE said statelessness related issues came up most often in the context of their legal work, including regular requests from lawyers for support with advice for stateless people seeking routes to protection. RISE reflected that statelessness was not an issue they had focused on in their work to date, but that it was very relevant and a significant area of concern, describing how nationality issues were impacting on individual refugees across their networks. UNHCR spoke at length about some of the challenges relating to statelessness arising in the Greek migration context and its recent work to raise awareness with government and regional actors on this. EU agencies (Frontex, EASO and FRA) noted key areas where statelessness is relevant to their work, for example in nationality screening procedures, risk analysis, monitoring hotspots, implementing returns, statistical monitoring and reporting, country of origin information provision, as well as integration, and other areas of policy overlap at EU level. Interviewees often noted a knowledge and capacity gap within their own organisations in relation to statelessness and a stated intention and desire to address this.

Key challenges and opportunities

A range of challenges were identified by regional actors, including many of those already noted by interviewees in the three research countries. RISE and UNHCR spoke at length about the mis-recording of nationality status on arrival in Greece. Challenges relating to nationality screening on arrival were also raised by Frontex and identified as an area where clear guidance and capacity building were required. The overlapping mandates of national and regional authorities was felt to be at the root of some of these challenges, with a lack of regional guidance being a key gap, as well as diverging administrative practices across national bodies, such as differing nationality assessments made by the police and asylum service, or differing practices in recording nationality status. Interviewees felt that sensitisation and awareness-raising at the level of frontline officers was not necessarily the answer, with a need for engagement with middle and senior managers, as well as at a political level, to influence more systemic change and recognition of statelessness as a protection issue. It was suggested that there were a range of factors incentivising identification (or not) of statelessness on arrival, including that nationality status determines how people are routed through the system, including whether they are deemed eligible for readmission to Turkey, or fast-tracked through an accelerated asylum procedure.

> *'...there is a collective sort of pressure on the Greek Police, Frontex, everyone else, just because the whole system is configured with the aim of facilitating returns and that puts pressure on everybody...' (UNHCR)*

> *'...when [a refugee] arrives on a border in Greece...when they are asked 'where are you from', they might say... 'I have come from Syria'. 'And what is your nationality'; and when they say, 'I don't have a nationality', the authorities say 'no, it's not possible; you have to tell me your nationality', and the authorities are insisting on a nationality and they have to say something otherwise they will ... not get their papers or their...registration that is needed from the first stage. ... Also, with couples...where the wife is stateless, but when she says she doesn't have a nationality, the authorities don't accept it and write the nationality of the husband as the nationality of the wife. We have faced this many times in Greece.' (RISE)*

ECRE also mentioned the challenge of an increasing enforcement and returns approach by European authorities and said that a common case profile arising in its members' work was young Palestinian single men who had been refused asylum and were seeking other legal pathways to protection. The lack of statelessness determination procedures, the lack of harmonisation between procedures for determining statelessness, and a general lack of information about the policies and practices of EU member states in this regard were noted as key challenges that required addressing. EASO said pan-regional research was required to better understand the current situation across member states, and ECRE, RISE and UNHCR said that legal solutions for affected individuals were lacking.

RISE highlighted a constant requirement to present 'documentation' when accessing services even after being granted international protection. In Greece, for example, there was felt to be a capacity gap among officials at all levels, not just at registration, but also among gatekeepers to other services,

who demand documentation from countries of origin that people do not have or should not be asked for (such as documentation that would require refugees to approach the embassy of their country of origin). UNHCR said this was a problem facing all refugees in Greece, not just those affected by statelessness. FRA reported issues with birth registration in Greece, saying that its observers had identified barriers to birth registration and documentation faced by the children of refugees.

Regional actors said more could be done to draw attention to statelessness in Europe through raising awareness of the relevance of the EU Charter, and strategic litigation at the European Court of Justice as well as at national level. Engagement on the ground with refugee communities was also felt to be critical, as people affected by statelessness are often not aware of their rights and no one is currently providing that kind of information. It was recognised that in the current political context, statelessness is not on the agenda and unlikely to be so soon. However, policy and practical solutions at a *'technical level'* are more feasible, such as regional collaborations to deliver capacity-building to frontline officials, information sharing and engagement with working groups in the Commission responsible for operationalising EU policy commitments and legal obligations.

EU agencies said they would welcome engagement to share tools and information on statelessness, saying there was a need to ensure members states and other stakeholders were aware of statelessness issues and available resources. The potential for future collaboration to address the lack of training and regional guidance available on identifying and recording statelessness was noted.

CONCLUSION AND RECOMMENDATIONS

It is evident from the emerging findings as well as difficulties the project team has faced in engaging key actors in the project, that there is a broader challenge of lack of focus and attention on the nexus between statelessness and forced migration by almost all stakeholder groups interviewed across the research sites. There appears to be a fundamental lack of knowledge and limited interaction between stakeholder groups on these issues: refugees are often unaware of their own rights; settled communities may have knowledge about their own situation but lack awareness of other stateless groups and don't appear to be organising around the issue; civil society organisations lack a comprehensive understanding of the issues and are not delivering programmes to address the challenges faced by stateless refugees; and State authorities often appear not to perceive statelessness as relevant to their mandate, be aware of its impact, or fully grasp their responsibilities to protect the rights afforded stateless people under international law. Some regional actors are clearly beginning to recognise these challenges and the relevance of statelessness to their work, but, although emerging recognition is welcome, there is clearly a need for institutional capacity-building and coordinated reform at national and regional levels.

There is currently a lack of procedural clarity, with little transparency in the way statelessness is or is not being identified and addressed in refugee populations. In Greece, for example, civil society organisations say they do not know how authorities are recording nationality; Greek officials are routinely correcting mistakes made by those responsible for nationality screening; and cultural mediators appear to be playing a role in nationality assessment. In the Serbian context, statelessness often goes unidentified and is not perceived to be relevant to the refugee response. In the Netherlands, the knowledge and treatment of statelessness is inconsistent and bureaucratic varying from municipality to municipality and between different state authorities. Other stakeholders the

project has yet to reach are also likely to be key to fully understanding stateless refugees' experiences and interactions with the state and systems, such as interpreters, healthcare and other service providers such as civil registry or education authorities, the media, and more. What is clear is that a coordinated focus on these issues by all stakeholders is urgently needed.

This scoping research has uncovered nuances across different stateless populations, countries and mandates, but also some key common challenges. We have identified a lack of knowledge and capacity in relation to statelessness in the forced migration context in Europe, which urgently needs to be addressed. Over the course of the #StatelessJourneys project, we will develop further tools and targeted recommendations for key stakeholders, in collaboration with refugees affected by statelessness and nationality problems, civil society and national and regional authorities in the following priority areas for action:

1. **Information provision**

Produce and disseminate clear and accessible information for stateless individuals (on their rights, services, and specialist lawyers), those assisting them (on the relevant legal frameworks, caselaw, and signposting information), and decision-makers (on the causes and consequences of statelessness, country of origin information and common profiles of stateless refugees in Europe).

2. **Capacity-building**

Build the capacity of frontline officials, service providers and support organisations to facilitate an improved response to statelessness and nationality problems among refugees in Europe, prevent new cases of statelessness arising, and ensure that statelessness is accurately identified, recorded and the rights of individuals respected.

3. **Identification and recording of statelessness and nationality problems**

Improve and standardise procedures for identifying statelessness and nationality problems during nationality screening, and at other points at which nationality status is identified during asylum procedures. The administrative category of 'unknown nationality' should be clearly defined, used only exceptionally and regularly reviewed. Where there are indications that a person may be stateless, this should be identified, and the individual referred to a procedure to determine their statelessness at an appropriate juncture in international protection proceedings. Improve data collection, monitoring and reporting on statelessness and nationality problems.

4. **Statelessness determination and protection status**

Introduce statelessness determination procedures and protection regimes in law in more European states, in line with good practice, to enable governments to meet their obligations to stateless people under the 1954 Convention, and provide a clear legal pathway out of irregularity for those stateless people who are not eligible for refugee or subsidiary protection, but are unable to return to their countries of origin.

5. **Birth registration and prevention of childhood statelessness**

Closely monitor birth registration practices to ensure that all children (including the children of refugees and children born in transit) access free, immediate birth registration irrespective of the legal status or documentation of their parents, and that all necessary information about parents and child is recorded, and that all children are issued with birth certificates. Put in place full safeguards against childhood statelessness by adopting amendments to national laws, policy guidelines and/or

further implementing measures to address all situations in which children born on the territory of European states can be left without a nationality.

6. Detention and return

Improve guidance and awareness to prevent the arbitrary detention of stateless people. Ensure that statelessness is considered as a juridically relevant fact in detention and return decisions, and that if someone claims to be stateless they are protected from detention, provided with information and legal assistance, and referred to a statelessness determination procedure to establish their nationality or entitlement to protection as a stateless person under the 1954 Convention.

7. Naturalisation

Facilitate naturalisation procedures for stateless people in line with obligations under the 1954 Convention, including by reducing the length of time people must wait to naturalise, and exempting stateless people from requirements that they may not be able to meet due to their statelessness (documentation, fees, language or citizenship tests etc.)

ACKNOWLEDGEMENTS

ENS is a civil society alliance of over 140 NGOs, academic initiatives, legal aid providers and individual experts working to address statelessness in 41 European countries through law and policy development, awareness raising, and capacity building. ENS has a strong track record of delivering high impact research, advocacy, capacity-building and awareness-raising projects in thematic areas such as childhood statelessness, preventing the arbitrary detention of stateless people, and addressing the discrimination faced by minorities disproportionately affected by statelessness and risk of statelessness, including Roma. For more information visit www.statelessness.eu

ISI is an independent non-profit research organisation with a mission to be an expert source of impartial, trusted and interdisciplinary research, analysis, information and education on statelessness and disenfranchisement around the world. The intersection between statelessness and forced displacement is a thematic priority for the Institute's research and engagement work, and one it has previously collaborated on with the Norwegian Refugee Council for example to publish a study on statelessness in the Syrian refugee context. For more information visit http://new.institutesi.org

ANNEX I – INTERVIEWEES

Individual Interviews (stateless refugees)

Country of Interview	Stateless Profile	Country of Origin	Gender
Greece	Kurd	Syria	Male
	Palestinian	Syria	Male
	Rohingya	Burma & Iran	Male
	Bidoon	Kuwait	Male
Serbia	Afghan	Iran	Male
	Afghan	Iran	Male
	Rohingya	Myanmar	Male
	Bidoon	Kuwait	Female
The Netherlands	Palestinian	Qatar	Male
	Palestinian	Lebanon	Female
	Bidoon	Kuwait	Male
	Ex-USSR	Georgia	Male

Individual Interviews (other stakeholders)

Country of Interview	Type of organisation	Location
Greece	National authority	Athens
	National authority	Lesvos
	International NGO	Lesvos
	National NGO	Lesvos
	Legal aid provider	Lesvos
Serbia	Inter-governmental organisation	Belgrade
	National authority	Belgrade
	International NGO	Belgrade
	International NGO	Belgrade
The Netherlands	Legal aid provider	Amsterdam
	National NGO	Ter Apel
	National authority	Utrecht
	National authority	Amsterdam
Regional Stakeholders	European Council on Refugees and Exiles	Brussels
	Refugees Ideas and Solutions for Europe	Athens
	EU Fundamental Rights Agency	Vienna
	UNHCR	Athens
	European Asylum Support Office	Valetta
	Frontex	Warsaw

Focus Groups

Country	# participants	Profile of participants
Serbia	5	Cultural mediators from Farsi, Pashto, Urdu, Dari, & Arabic-speaking backgrounds; 3 male, 1 female, 1 undisclosed
The Netherlands	7	Representatives of organisations led by people affected by statelessness, including Palestinian, Kurdish, undocumented migrants and Roma; all male.

Country	# participants	Profile of participants
Serbia	5	

ENDNOTES

i Eurostat, 'Asylum and first-time asylum applicants by citizenship, age and sex annual aggregated data (rounded)', available at: https://ec.europa.eu/eurostat/web/asylum-and-managed-migration/data/database. Although Palestine is recognised as a state by an increasing number of governments globally, it does not currently have a nationality law in place and so the notion of a Palestinian citizenship is contested.

iiii In Syria, Iraq, Somalia, and Iran, gender discrimination prevents women from conferring nationality to their children on an equal basis as men. In Eritrea and Sudan, state succession has left many people stateless or with an unclear nationality status. In other countries, such as Turkey, arbitrary deprivation of nationality is a growing problem. For further information see, Institute on Statelessness and Inclusion (2014), The World's Stateless, Wolf Legal Publishers, available at: http://www.institutesi.org/worldsstateless.pdf

iii For further information and comparison of how different European countries perform in relation to their international and regional obligations to address statelessness, see ENS's Statelessness Index: https://index.statelessness.eu. In Europe, these obligations flow not only from the human rights treaties to which states are party – for example, the Convention on the Rights of the Child, protecting the right of every child to acquire a nationality, to which all European states are party – but also from the 1954 Convention in Relation to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness, and the 1997 European Convention on Nationality.

iv See for example, Berenyi, K (2016) Statelessness and the refugee crisis in Europe, Forced Migration Review: http://www.fmreview.org/sites/fmr/files/fmrdownloads/en/community-protection/berenyi.pdf; or the work of Jason Tucker at Malmo University: https://www.mah.se/forskning/sok-pagaende-forskning/europes-stateless-refugees-navigating-the-pre-or-post-national-space-of-indefinite-statelessness-in-sweden-and-denmark/

v See for example, Swider, K (2014), Protection and Identification of Stateless Persons Through EU Law, Amsterdam Law School Research Paper No 2014-38, available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2464009; ENS (2013) Good Practice Guide on Statelessness Determination and the Protection Status of Stateless Persons, available at: https://www.statelessness.eu/resources/ens-good-practice-guide-statelessness-determination-and-protection-status-stateless; Radnai, N (2017) Statelessness determination in Europe: Towards the implementation of regional harmonised national SDPs, ISI Statelessness Working Paper Series, available at: http://www.institutesi.org/WP2017_08.pdf; Mrekajova, E (2012), Naturalisation of stateless persons: Solution of statelessness?, Tilburg University, available at: http://www.academia.edu/1251960/Naturalization_of_stateless_persons_Solution_of_statelessness

vi NS (2015) No Child Should be Stateless, available at: https://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_NoChildStateless_final.pdf; ISI (2017) The World's Stateless Children, Wolf Legal Publishers, available at: http://www.institutesi.org/worldsstateless17.pdf

vii ENS (2017) Protecting Stateless Persons from Arbitrary Detention: an Agenda for Change, available at: http://www.statelessness.eu/sites/www.statelessness.eu/files/attachments/resources/ENS_LockeInLimbo_Detention_Agenda_online.pdf

viii European Network on Statelessness (2015), No Child Should Be Stateless, available at: https://www.statelessness.eu/sites/www.statelessness.eu/files/ens_nochildstateless_final.pdf

ix The 1962 census in Syria divided the population into three categories (Syrian national, 'ajanib' or foreigners – those who failed to convince the authorities of their residence in Syria at the time of the census, and 'maktoumeen' – those who failed or refused to participate in the census) rendering some 120,000 Syrians, predominantly Kurds and their descendants, stateless. For further information see: ISI (2013), The Stateless Syrians, Tilburg University, available at: http://www.refworld.org/pdfid/52a983124.pdf

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.

#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

European Network on Statelessness

Institute on Statelessness and Inclusion

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