

Statelessness and refugees in Greece

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 GREECE?

Greece experienced a significant increase in arrivals of people seeking international protection in 2015, which has continued through 2017. Trends in onward movement have shifted since the EU-Turkey agreement in March 2016. The Greek Asylum Service reports 58,661 asylum applications were lodged in Greece in 2017. The top recorded countries of origin of asylum applicants in 2017 were Syria (42%), Pakistan, Iraq, Afghanistan, Albania, Bangladesh, Iran, Palestine, Georgia and Egypt. According to the Asylum Information Database¹, the proportion of women (22%) and children (37%) arriving has increased, amounting to 59% of arrivals by sea. Reception facilities are critically overcrowded, there have been outbreaks of violence in Moria Camp on Lesbos, and conditions have been strongly criticised. Access to the procedure, to legal advice, and delays in decision making are also reported as areas of concern.

WHAT IS THE LEGAL SITUATION FOR STATELESS PEOPLE IN GREECE?

Greece is state party to the 1954 Convention on the Status of Stateless Persons², the UN Convention that defines a stateless person and sets out the rights that should be granted to stateless people (such as, a residence permit, right to work, study, family reunion, and naturalisation). Greece is not state party to the 1961 Convention on the Prevention and Reduction of Statelessness nor the 1997 European Convention on Nationality, which contain important safeguards against childhood statelessness and arbitrary deprivation of nationality. There is no dedicated Statelessness Determination Procedure in Greece. Although in April 2016 Law 4375/2016³ assigned responsibility for implementing a Procedure to the Greek Asylum Service and authorised a Presidential Decree to be issued setting out the details, this Decree has not yet been published. Greek nationality law contains provisions to safeguard children born on its territory from statelessness, but it's not clear how these are implemented in practice.⁴

¹ <https://www.asylumineurope.org/reports/country/greece>

² http://www.unhcr.org/ibelong/wp-content/uploads/1954-Convention-relating-to-the-Status-of-Stateless-Persons_ENG.pdf

³ Law No. 4375 of 2016 on the organization and operation of the Asylum Service, the Appeals Authority, the Reception and Identification Service, the establishment of the General Secretariat for Reception, the transposition into Greek legislation of the provisions of Directive 2013/32/EC

⁴ <http://globalcit.eu/country-profiles/>



WHY IS STATELESSNESS RELEVANT TO THE REFUGEE RESPONSE IN GREECE?

Although reliable data on statelessness among refugee arrivals in Greece is limited⁵, according to actors on the ground, populations affected by statelessness are present among arrivals. The most commonly encountered stateless people include Bidoon from Kuwait, stateless Kurds, Palestinians, as well as individuals affected by nationality problems from Pakistan and Afghanistan. A small number of Rohingya from Myanmar have also been identified. Some of the key statelessness-related challenges emerging from our research in the Greek context are highlighted below.

Arrival & Registration

- Nationality problems are not being accurately identified and recorded on arrival.
- Stateless people report reluctance to convey their nationality problems to authorities.
- There is a general lack of awareness of the implications of statelessness and the rights and protections afforded to stateless people under international law.
- The failure to identify or record statelessness on arrival, leads to registration with imputed nationality or 'unknown' nationality, which can later be difficult to correct.
- It is unclear on what basis and with what motivation nationality is being imputed, practice varies across different agencies, and there is a lack of procedural clarity.
- Stateless women, men and children are potentially at greater risk of exploitation on their journeys due to their lack of documentation and legal status.

Determination of international protection status

- A lack of clarity about someone's nationality can impact on the assessment of credibility.
- Individuals report concerns that their statelessness could negatively impact their asylum claim and/or that referrals made on the basis of country of origin/former residence mean they might not even have the opportunity to explain their statelessness to the Greek Asylum Service (e.g. those from Pakistan).
- Concerning the fast track procedure, the UN Special Rapporteur on the Human Rights of Migrants highlighted in 2017 that the provisions on exceptional derogation measures for people applying for asylum at the border raise *"serious concerns over due process guarantees"*. In 2018, the European Ombudsman found that *"there are genuine concerns about the quality of the admissibility interviews as well as about the procedural fairness of how they are conducted."* In February 2019, FRA noted that *"almost three years of experience [of processing asylum claims in facilities at borders] in Greece shows, [that] this approach creates fundamental rights challenges that appear almost unsurmountable."*⁶ The additional pressure on the Asylum Service to accelerate the asylum procedure may undermine the quality of first instance decisions.⁷

⁵ The Greek Asylum Service does not publish data disaggregated by 'stateless' status.

⁶ Asylum Information Database, Country Report: Greece (2018), pp. 15

⁷ Asylum Information Database, Country Report: Greece (2018), pp. 25



- Concerning the Appeals Committees, in recent years the second instance recognition rate has decreased significantly raising concerns about the operation of an efficient and fair asylum procedure in Greece.⁸
- Delays in the procedure have been reported when statelessness is disclosed to allow for gathering of information due to decision-makers lacking relevant knowledge/expertise.
- There is a lack of access to legal advisors specialised in statelessness generally in some areas (e.g. Lesbos), and a lack of information available to applicants on nationality rights and statelessness specifically.
- Interpreters and 'cultural mediators' are reportedly influencing official decisions on nationality status in some cases inappropriately or without the necessary training or expertise.

Immigration detention

- If statelessness is not adequately addressed in the procedure it can lead to prolonged - and risk of arbitrary or unlawful - detention.
- There is still no dedicated Statelessness Determination Procedure in Greece so it's not clear what the legal routes to protection are under the 1954 Convention if a stateless person is refused refugee protection.
- Due to the lack of an individual assessment procedure prior to the imposition of a detention order and lack of effective, periodic detention reviews, individuals can be subject to return procedures and prolonged detention even if their nationality is unknown and without proper determination of nationality status.

Child's right to a nationality

- The lack of awareness of the implications of statelessness and gender discrimination in nationality laws leads to inconsistent implementation of the safeguard in Greek law to grant nationality to otherwise stateless children born in the country.
- Children's nationality is routinely registered as the same as their parents on their asylum ID without examining whether a parent can confer a nationality to the child.

Naturalisation

- Since there is no dedicated Statelessness Determination Procedure in Greece the identification of statelessness is at the full discretion of the Ministry of Interior.
- The naturalisation procedure for stateless people in Greece cannot be adequately implemented, as stateless people face many obstacles to regularising their residence status in Greece, which is a necessary condition for access to naturalisation.

⁸ Asylum Information Database, Country Report: Greece (2018), pp. 16



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

Stage	Key actors and roles
Reception and Identification	<ul style="list-style-type: none"> • <i>Reception and Identification Service</i> has overall competency for all procedures conducted within the scope of Reception and Identification Procedures. Some parts of these procedures are implemented by: <ul style="list-style-type: none"> ◦ <i>Hellenic Police</i>: identification, fingerprinting and registration of new arrivals with the operational assistance of FRONTEX; referral of those who wish to seek asylum to the Asylum Service; detention of those who fall within the scope of the so-called 'pilot project' (Kos and Lesvos); referral to readmission procedures of new arrivals who do not express an intention to seek asylum; patrol of premises of the Reception and Identification Centre (RIC) ◦ <i>KEELPNO</i>: conducts medical and psychosocial screening and assessment for new arrivals within the scope of First Reception Services and recognises people as 'vulnerable' who are identified as falling within a vulnerability category specified in law (A. 14 par 8 L.4375/2016) • <i>EU Fundamental Rights Agency</i>: presence in the Hotspots as observers
Asylum Procedure	<ul style="list-style-type: none"> • Greek Asylum Service (GAS) registers asylum seekers and examines their claims in Regional Asylum Offices (RAO) and Autonomous Asylum Units (AAU) with the support of the European Asylum Support Office (EASO); imposes geographic limitations on new arrivals who have entered through the Eastern Aegean Islands and lifts these where people are identified as vulnerable or subject to Dublin procedures; issues residence permits to those who have been granted international protection (travel documents are issued by the competent passport office of the Hellenic Police).
Support during asylum process	<ul style="list-style-type: none"> • UNHCR • International NGOs (e.g. Danish Refugee Council, CARITAS, HIAS) • National NGOs (e.g. Praksis, Greek Council for Refugees, Metradasi,) • Volunteer organisations (e.g. Legal Centre Lesbos, Mosaik Support Centre, European Lawyers in Lesbos, Refugee Info Bus) • Community organisations and networks (e.g. Greek Forum of Refugees, Arabic-language online platform that disseminates information to the Arabic-speaking community)
Determination of international protection status	<ul style="list-style-type: none"> • Within the scope of the fast track border procedure, GAS conducts an initial admissibility determination, based on EASO/GAS interview. • Within the regular procedure, asylum claims are examined directly on their merits • GAS assesses potential vulnerabilities of applicants who have not been previously identified as vulnerable (if identified during the asylum procedure) • Decision on international protection status is made by GAS
Detention and return	<ul style="list-style-type: none"> • People arriving on the islands might be restricted in RICs for up to 25 days, but even afterwards a geographic restriction to the island is imposed by the GAS. Restrictions may be lifted under certain conditions (e.g. Dublin cases, vulnerable cases, after recognition) • Citizens of countries with low asylum recognition rates may be detained on arrival until a final decision on their asylum application • Separated children or UAMs are held in 'protective custody' in RICs until transferred to transit or longer-term shelters • IOM supports an Assisted Voluntary Return and Reintegration (AVRR) programme



	<ul style="list-style-type: none">• The Hellenic Police manage 8 pre-removal detention centres (2 on the islands and 6 on the mainland) and places of police custody, and carry out returns
Birth registration	<ul style="list-style-type: none">• Health services (e.g. hospital of birth)• Civil registry office
Naturalisation	<ul style="list-style-type: none">• Municipality and Regional Authorities officials receive the application• Ministry of Interior makes the decision

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

- Procedural clarity and clear guidance is required to support accurate identification, registration and recording of statelessness and nationality problems among new arrivals
- Capacity-building and resources are required for key actors involved in the refugee response
- Information on rights is required in formats and languages accessible to affected individuals and communities on the ground
- A dedicated Statelessness Determination Procedure should be established to enable Greece to meet its international obligations under the 1954 Convention and reduce the risk of arbitrary detention
- Accurate birth registration must be guaranteed for all children born in Greece irrespective of the status of their parents, and the child's right to a nationality upheld in practice
- Safeguards in Greek nationality law must be implemented in practice to prevent childhood statelessness arising from the current refugee context in Greece
- A facilitated route to naturalisation should be implemented 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.

For further information about the project contact:

- **Nina Murray**, Head of Policy & Research, European Network on Statelessness, nina.murray@statelessness.eu
- **Spyros - Vlad Oikonomou**, Advocacy Officer, Greek Council for Refugees s.oikonomou@gcr.gr



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>



We would like to acknowledge the support of Open Society Foundations.

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