

COUNTRY BRIEFING
JULY 2020

Norway



INTRODUCTION

The [Statelessness Index](https://index.statelessness.eu/) (<https://index.statelessness.eu/>) is an online comparative tool that assesses European countries' law, policy and practice on the protection of stateless people and the prevention and reduction of statelessness against international norms and good practice. The Index was developed and is maintained by the [European Network on Statelessness \(ENS\)](#),¹ a civil society alliance of over 150 organisations and individuals in 41 countries working to end statelessness and ensure that stateless people in Europe access their rights.

ENS worked with its members² to research and compile comparative information on statelessness in Norway.³ This briefing summarises the findings on how Norwegian law, policy and practice performs against international norms and good practice on the protection of stateless persons and the prevention and reduction of statelessness. It covers five thematic areas – International and Regional Instruments, Stateless Population Data, Statelessness Determination and Status, Detention, and Prevention and Reduction – and makes a series of recommendations to the Norwegian Government for reform in priority areas.

To be stateless is not to be considered as a national by any state under the operation of its law. It is a legal anomaly that prevents more than 10 million men, women and children around the world - and more than half a million in Europe - from accessing fundamental civil, political, economic, cultural and social rights.

INTERNATIONAL AND REGIONAL INSTRUMENTS

Norway is state party to all four of the core statelessness conventions: the [1954 Convention](#), the [1961 Convention](#), the [European Convention on Nationality](#), and the [European Convention on the Avoidance of Statelessness in Relation to State Succession](#). It is also party to all other relevant regional and international instruments except for the [Convention on the Rights of Migrant Workers](#). It retains some reservations to the [International Covenant on Civil and Political Rights](#) and the [International Covenant on Social and Economic Rights](#), but these do not have a substantive impact on statelessness.

STATELESS POPULATION DATA

Norway collects and holds disaggregated data on its stateless population and some qualitative and quantitative analysis of statelessness in the country is available, including through a mapping study.⁴ According to the latest available figures provided by Statistics Norway, there were 2,118 recorded stateless persons in Norway in 2020. However, the available data is somewhat unreliable as there is no definition of a stateless person in Norwegian law, nor any statelessness determination procedure. Furthermore, the number of

stateless persons among those living in Norway without a residence permit is unknown. Norwegian authorities collect, hold and publish some disaggregated data on detention, but no public information is provided on the nationality status of detainees.

The Norwegian Government should take concrete steps to improve the recording of statelessness, including by harmonising and defining the statistical categories used by different agencies and keeping the statistical data up to date. It should ensure that registration officials (including in the detention context) are trained to accurately identify and record statelessness.

STATELESSNESS DETERMINATION AND STATUS

Norway does not have a statelessness determination procedure, but there are other administrative procedures through which statelessness can be identified, including when applying for international protection, travel documents or nationality. However, there is no obligation on the authorities to identify or determine statelessness and no specialised training to assist them to do so. When determining statelessness, the burden of proof in the procedure is shared in principle, but the standard of proof is in practice often higher than in the asylum procedure. No legal status in Norway stems from being determined as stateless, although a

stateless person may acquire Norwegian nationality more easily than others, provided that the person has resided in Norway with a qualifying residence permit for at least three consecutive years. In theory, it is possible to acquire a residence permit on humanitarian grounds due to practical impossibility of return, which may entitle the holder to the right to work, family reunification (subject to further requirements) and naturalisation (also subject to further requirements). In practice, such a residence permit has been granted in less than 10 cases since 2008. This determination procedure is not statelessness-oriented, and the burden of proof lies in practice mostly with the applicant. Stateless persons born in Norway may acquire Norwegian nationality after having resided in Norway for three consecutive years even if they (and/or their parents) have resided in Norway with no residence permit.

The Norwegian Government should establish in law a dedicated statelessness determination procedure and protection status in line with UNHCR Guidance and good practice and fulfil its obligations to stateless persons under the 1954 Convention, including to grant them a residence permit, right to work, study and facilitated naturalisation.



DETENTION

Protection against the arbitrary detention of stateless people in Norway is mixed. Powers for detention, alternatives to detention and procedural protections are established in law, but there are some gaps. For example, detention is possible without identifying a proposed country of removal, and although consideration of alternatives should form part of a necessity and proportionality test, it is not set in law that detention should be a last resort after exploring all alternatives. There is a maximum time limit (this does not apply to persons who are expelled for a criminal offence), automatic judicial oversight, and a right to free legal representation and remedies. However, in practice, lawyers' time with clients is very brief and many lack expertise on statelessness. Basic rights and protections, including accommodation at a reception centre, are provided on release for people who have applied for asylum for as long as they are under Norwegian jurisdiction, but not for others. Asylum seekers detained for the purpose of enforced return are not protected from re-detention, although cumulative time spent in detention does count towards the maximum time limit. Statelessness is not juridically relevant in readmission or return agreements and lawyers have reported cases of stateless people being returned under such agreements to countries where they have no residence rights.

The Norwegian Government should take further steps to protect stateless persons from arbitrary detention by introducing a statelessness determination procedure and protection status and ensuring clear referral routes from returns proceedings to the statelessness determination procedure, as well as embedding consideration of statelessness as a juridically relevant fact in all decisions to detain.



PREVENTION AND REDUCTION

Norway has relatively strong safeguards in law and policy to prevent and reduce statelessness. There is a provision in the Nationality Act that provides a conditional route to naturalisation for stateless children and adults upon an application. Instruction G-08/2016 issued by the Government to the immigration authorities requires this provision to be applied in line with the 1961 Convention in the case of people born stateless in Norway.⁵ According to the instruction, stateless persons born in Norway have the right to acquire Norwegian nationality after having resided in Norway for three consecutive years even if they (and/or their parents) have resided in Norway with no residence permit. However, the instruction is not set in law and is therefore only binding on first instance decision-makers, not the appeals body. There are provisions in law to prevent statelessness in adoption cases, and foundlings acquire nationality automatically, although there may be a risk of statelessness if the origin of a foundling is later established. Birth registration takes place regardless of the status of the parents and late registration is possible. However, officials are instructed to register children born to non-Nordic parents with different nationalities with the mother's nationality (unless otherwise highlighted in the birth notification). Parents without a residence permit in Norway or a passport are not automatically issued with a birth certificate through BankID but must request it by calling the Tax Administration, which will then send it to the parents' registered Norwegian address. This can lead to problems if the parents do not receive information about the procedure, especially if they are deported before the birth certificate is issued. Withdrawal of nationality is not possible if it leads to statelessness, except where Norwegian nationality was acquired by misinterpretation or fraud.

The Norwegian Government should consider granting persons born in Norway who would otherwise be stateless nationality automatically at birth by operation of law. At the very minimum, the law should be amended to reflect the instruction G-08/2016.

The Norwegian Government should ensure that all children born in Norway, regardless of the status or identity of their parents, automatically acquire documentary proof of birth as soon as possible and remove any obstacles to this.

Birth registration procedures should be revised to ensure that statelessness is correctly identified and recorded as soon as possible after birth.

SUMMARY OF RECOMMENDATIONS

The Norwegian Government should:

- Take concrete steps to improve the recording of statelessness, including by harmonising and defining the statistical categories used by different agencies and keeping the statistical data up to date.
- Ensure that registration officials (including in the detention context) are trained to accurately identify and record statelessness.
- Establish in law a dedicated statelessness determination procedure and protection status in line with UNHCR Guidance and good practice and fulfil its obligations to stateless persons under the 1954 Convention, including to grant them a residence permit, right to work, study and facilitated naturalisation.
- Take further steps to protect stateless persons from arbitrary detention by introducing a statelessness determination procedure and protection status and ensuring clear referral routes from returns proceedings to the statelessness determination procedure.
- Embed consideration of statelessness as a juridically relevant fact in all decisions to detain.
- Consider granting persons born in Norway who would otherwise be stateless nationality automatically at birth by operation of law, at the very minimum, amending it to reflect the instruction G-08/2016.
- Ensure that all children born in Norway, regardless of the status or identity of their parents, automatically acquire documentary proof of birth as soon as possible and remove any obstacles to this.
- Revise birth registration procedures to ensure that statelessness is correctly identified and recorded as soon as possible after birth.

ENDNOTES

- ¹ <https://www.statelessness.eu>
- ² Lead Country Researcher for the Statelessness Index in Norway is ENS Member, Norwegian Organisation for Asylum Seekers (NOAS – Marek Linha, Legal Adviser)
- ³ <https://index.statelessness.eu/country/norway>
- ⁴ UN High Commissioner for Refugees (UNHCR), Mapping Statelessness in Norway, October 2015, available from: <https://www.refworld.org/docid/5653140d4.html>
- ⁵ Justis- og beredskapsdepartementet, *Instruks om tolkning av statsborgerloven - gjeldende rett for statsløse søkere som er født i Norge, G-08/2016*, available at: <https://bit.ly/33Xke3n>

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