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International and Regional Instruments

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
IOB	1	a	1954 Convention	Is your country party to the 1954 Statelessness Convention?	<ul style="list-style-type: none"> UN Convention Relating to the Status of Stateless Persons, 1954 	Yes	United Nations Treaty Collection: https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&mtdsg_no=V-3&chapter=5&Temp=mtdsg2&clang=en
IOB	1	b		If yes, when was ratification/accession?		12 April 1976	<i>Gesetz zu dem Übereinkommen vom 28. September 1954 über die Rechtsstellung der Staatenlosen</i> [Law on the Convention of 28 September 1954 on the Status of Stateless Persons], Bundesgesetzblatt (BGBl) [Federal Law Gazette] 1976 II, 473-476: https://www.bgbl.de/xaver/bgbl/start.xav#_bgbl_%2F%2F*%5B%40attr_id%3D%27bgbl276s0473.pdf%27%5D_1522067556006 (German (DE))
IOB	1	c		Are there reservations in place? Please list them.	<ul style="list-style-type: none"> Best practice is no reservations. If there are, they should have little or no effect on the rights of stateless persons. 	<p>Yes.</p> <ul style="list-style-type: none"> Article 23 will be applied without restriction only to stateless persons who are also refugees within the meaning of the Convention of 28 July 1951 relating to the Status of Refugees and the Protocol of 31 January 1967 relating to the Status of Refugees, but otherwise only to the extent provided for under national legislation; Article 27 will not be applied. 	United Nations Treaty Collection, Convention relating to the Status of Stateless Persons: https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&mtdsg_no=V-3&chapter=5&Temp=mtdsg2&clang=en#4 BGBl 1976 II, 473-476
IOB	1	d		Does the Convention have direct effect?	<ul style="list-style-type: none"> Best practice is that the Convention has direct effect, though this may depend on legal regime. 	Yes	
IOB	2	a	1961 Convention	Is your country party to the 1961 Statelessness Convention?	<ul style="list-style-type: none"> UN Convention on the Reduction of Statelessness, 1961 	Yes	

IOB	2	b		If yes, when was ratification/accession?		29 June 1977	<i>Ausführungsgesetz zu dem Übereinkommen vom 30. August 1961 zur Verminderung der Staatenlosigkeit und zu dem Übereinkommen vom 13. September 1973 zur Verringerung der Fälle von Staatenlosigkeit (Gesetz zur Verminderung der Staatenlosigkeit)</i> [Implementing Law to the Convention of 30 August 1961 on the Reduction of Statelessness and to the Convention of 13 September 1973 on the Reduction of Cases of Statelessness (Law on the Reduction of Statelessness)], BGBl 1977 I, 1 101-1102 (DE)
IOB	2	c		Are there reservations in place? Please list them.	As above	No	United Nations Treaty Collection, Convention on the Reduction of Statelessness: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mt_dsg_no=V-4&chapter=5&clang=en#EndDec BGBl 1977 I, 1101-1102 (DE)
IOB	2	d		Does the Convention have direct effect?	As above	No. The implementing law applies. The Convention provides guiding principles.	
IOB	3	a	Other conventions	State party to European Convention on Nationality 1997? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> • European Convention on Nationality, 1997 	Yes. • Art 7 ‘[The] loss of German nationality ex lege may, on the basis of the "option provision" under Section 29 of the Nationality Act [Staatsangehörigkeitsgesetz-StAG] (opting either for German or a foreign nationality upon coming of age), be effected in the case of a person having acquired German nationality by virtue of having been born within	Council of Europe, Reservations and Declarations for Treaty No.166 – European Convention on Nationality, Nature of declaration: Reservations: http://www.coe.int/en/web/conventions/full-list/-

					<p>Germany (jus soli) in addition to a foreign nationality.'</p> <ul style="list-style-type: none"> • Art 7 (1) (f) '[The] loss of nationality may also occur if, upon a person's coming of age, it is established that the requirements governing acquisition of German nationality were not met.' • Art 7 (1) (DE) '[The] loss of German nationality can also occur in the case of an adult being adopted.' • Art 8 '[T]he following persons, irrespective of their place of residence, are not subject to loss of nationality as a result of release from nationality: public officials, judges, military personnel (soldiers) of the Bundeswehr [Federal Armed Forces], and other persons employed in a professional or official capacity under public law for as long as their contractual relationship is not terminated, with the exception of persons holding honorary positions; 2. 2. persons liable for military service (conscripts) – as long as the Federal Ministry of Defence or an agency designated by it does not declare that there are no objections to such release (i.e. does not issue a certificate of non-objection, cf. infra). If the persons listed under sub-paragraphs 1 and 2 above are holders of multiple nationality, permission required for 	<p>/conventions/treaty/166/declarations?p_auth=FM1u4xE9& coeconventions WAR coeconventionsportlet en-Vigueur=false& coeconventions WAR coeconventionsportlet searchBy=state& coeconventions WAR coeconventionsportlet codePays=GER& coeconventions WAR coeconventionsportlet codeNature=2</p> <p><i>Bekanntmachung ueber das Inkrafttreten des Europäischen Übereinkommens vom 6. November 1997 über die Staatsangehörigkeit</i>, BGBl 2006 II, 1353-1360: https://www.bgbl.de/xaver/bgbl/start.xav?start=//%5B@attr_id=%27bgbl206s1401a.pdf%27%5D# bgbl %2F%2F%5B%40attr_id%3D%27bgbl206s1351.pdf%27%5D 1524233923603 (DE)</p>
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					<p>renunciation of German nationality effected by means of a declaration to this effect will be granted only if such persons have had their habitual residence abroad for at least ten years. In addition, persons liable for military service (conscripts) will also be granted such permission if they did their military service in one of the States of which they are a national, or if they produce a certificate of non-objection by the Federal Ministry of Defense or by the agency designated by it.'</p> <ul style="list-style-type: none"> • Art 22 '[T]his provision, with the exception of sub-paragraph (a), is not applied in respect of persons who have fulfilled civil service as an alternative or have been exempted from military obligations on account of having fulfilled a service equivalent to military or civil service.' 	
IOB	3	b	State Party to European Convention on Human Rights 1950? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> • European Convention on Human Rights, 1950 	<p>Yes. There are no reservations in place.</p>	<p>Council of Europe, Chart of signatures and ratifications of Treaty 005: http://www.coe.int/en/web/conventions/search-on-treaties/-/conventions/treaty/005/signatures?p_auth=QxAb5VEK accessed 10 May 2017</p> <p><i>Gesetz ueber die Konvention zum Schutze der Menschenrechte und Grundfreiheiten, Bundesgesetzblatt, BGBl II 1952, 685:</i> https://www.bgbl.de/xaver/bgbl/start.xav#_bgbl_%2F%2F*%5B%40attr_id%3D</p>

							%27bgbl252s0685.pdf%27%5D_1524234798978 (DE)
IOB	3	c		State Party to Council of Europe Convention on the avoidance of statelessness in relation to State succession 2006? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> • Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession, 2006 	Signed	<p>Council of Europe, Chart of signatures and ratifications of Treaty 200: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/200/signatures?p_auth=OiFVeKIQ</p> <p><i>Gesetz zu dem Übereinkommen vom 6. November 1997 über die Staatsangehörigkeit, Bundesgesetzblatt, BGBl 2004 II, 578-593:</i> https://www.bgbl.de/xaver/bgbl/start.xav#_bgbl_%2F%2F%5B%40attr_id%3D%27bgbl204s0578.pdf%27%5D_1524236261184 (DE)</p>
IOB	3	d		Bound by Directive 2008/115/EC of the European Parliament and of the Council (EU Returns Directive). Are there reservations in place? Please list them.	<ul style="list-style-type: none"> • Directive 2008/115/EC of the European Parliament and of the Council (EU Returns Directive) 	Yes. There are no reservations in place.	<p><i>Gesetz zur Umsetzung Aufenthaltsrechtlicher Richtlinien der Europäischen Union und zur Anpassung nationaler Rechtsvorschriften an den EU-Visakodex, Bundesgesetzblatt, BGBl 2011 II, 2258-2271:</i> https://www.bgbl.de/xaver/bgbl/start.xav?start=//%5B@attr_id=%27bgbl111s2258.pdf%27%5D#_bgbl_%2F%2F%5B%40attr_id%3D%27bgbl111s2258.pdf%27%5D_1524236739956</p>
IOB	3	e		State Party to Convention on the Rights of the Child 1989? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> • Convention on the Rights of the Child 1989 	Yes. There are no reservations in place.	<p>United Nations Treaty Collection, Convention on the Rights of the Child: https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV11&chapter=4&lang=en#EndDec</p> <p><i>Bekanntmachung zum Uebereinkommen ueber die Rechte des Kindes, Bundesgesetzblatt, BGBl 1992 II, 122:</i> https://www.bgbl.de/xaver/bgbl/start.xa</p>

							v?start=//%5B@attr_id=%27bgbl214s0178.pdf%27%5D#_bgbl_%2F%2F*%5B%40attr_id%3D%27bgbl214s0178.pdf%27%5D_1524237081048 (DE)
IOB	3	f		<p>State Party to International Covenant on Civil and Political Rights 1966? Are there reservations in place? Please list them.</p>	<ul style="list-style-type: none"> • International Covenant on Civil and Political Rights 1966 	<p>Yes. Yes, there are reservations:</p> <ul style="list-style-type: none"> • Articles 19, 21 and 22 in conjunction with Article 2 (1) of the Covenant shall be applied within the scope of Article 16 of the Convention of 4 November 1950 for the Protection of Human Rights and Fundamental Freedoms. • Article 14 (3) (d) of the Covenant shall be applied in such manner that it is for the court to decide whether an accused person held in custody has to appear in person at the hearing before the court of review (Revisionsgericht). • Article 14 (5) of the Covenant shall be applied in such manner that: <ul style="list-style-type: none"> (a) A further appeal does not have to be instituted in all cases solely on the grounds the accused person having been acquitted by the lower court-was convicted for the first time in the proceedings concerned by the appellate court. (b) In the case of criminal offences of minor gravity the re- view by a higher tribunal of a decision not imposing imprisonment does not have to be admitted in all cases. • Article 15 (1) of the Covenant shall be applied in such manner that when provision is made by law 	<p>United Nations Treaty Collection, International Covenant on Civil and Political Rights: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-4&chapter=4&clang=en#EndDec</p> <p><i>Gesetz zu dem Internationalen Pakt vom 19. Dezember 1966 ueber buergerliche und politische Rechte</i>, Bundesgesetzblatt, BGBl 1973 II, 1534: https://www.bgbl.de/xaver/bgbl/start.xav?start=%2F%2F*%5B%40attr_id%3D%27bgbl273s1533.pdf%27%5D#_bgbl_%2F%2F*%5B%40attr_id%3D%27bgbl273s1533.pdf%27%5D_1524238865125 (DE)</p>

						for the imposition of a lighter penalty the hitherto applicable law may for certain exceptional categories of cases remain applicable to criminal offences committed before the law was amended.	
IOB	3	g		State Party to International Covenant on Economic, Social and Cultural Rights 1966? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> • International Covenant on Economic, Social and Cultural Rights 1966 	Yes. No, there are no reservations.	<p>United Nations Treaty Collection: International Covenant on Economic, Social and Cultural Rights: https://treaties.un.org/pages/viewdetails.aspx?chapter=4&lang=en&mtdsg_no=iv-3&src=treaty</p> <p><i>Gesetz zu dem Internationalen Pakt vom 19. Dezember 1966 über wirtschaftliche, soziale und kulturelle Rechte, Bundesgesetzblatt, BGBl 1973 II, 1569:</i> https://www.bgbl.de/xaver/bgbl/start.xav?start=//%5B@attr_id=%27bgbl273i1569.pdf%27%5D#_bgbl_%2F%2F%5B%40attr_id%3D%27bgbl273i1569.pdf%27%5D_1524239117259 (DE)</p> <p><i>Bekanntmachung über das Inkrafttreten des Internationalen Pakts über wirtschaftliche, soziale und kulturelle Rechte, Bundesgesetzblatt, BGBl 1976 II, 428-430:</i> https://www.bgbl.de/xaver/bgbl/start.xav#_bgbl_%2F%2F%5B%40attr_id%3D%27bgbl276s0428.pdf%27%5D_1524239322677 (DE)</p>
IOB	3	h		State Party to Convention on the Elimination of all Forms of Discrimination Against Women 1979? Are there	<ul style="list-style-type: none"> • Convention on the Elimination of all Forms of Discrimination Against Women 1979 • Gen. Rec. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness. 	Yes. There are no reservations.	<p>United Nations Treaty Collection, Convention on the Elimination of All Forms of Discrimination against Women: https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=iv-8&chapter=4&lang=en</p>

				reservations in place? Please list them.			<i>Gesetz zu dem Übereinkommen vom 18. Dezember 1979 zur Beseitigung jeder Form von Diskriminierung der Frau, Bundesgesetzblatt, BGBl 1985 II, 647:</i> https://www.bgbl.de/xaver/bgbl/start.xav#_bgbl_%2F%2F*%5B%40attr_id%3D%27bgbl285s0647.pdf%27%5D_1524239585211 (DE)
IOB	3	i		State Party to Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> • Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984 	Yes. There are no reservations.	United Nations Treaty Collection, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-9&chapter=4&lang=en <i>Gesetz zu dem VN-Uebereinkommen vom 10. Dezember 1984 gegen Folter und andere grausame, unmenschliche oder erniedrigende Behandlung oder Strafe, Bundesgesetzblatt, BGBl 1990 II, 246:</i> https://www.bgbl.de/xaver/bgbl/start.xav#_bgbl_%2F%2F*%40attr_id%3D'bgbl290s0246.pdf'[_1524239838178 (DE)
IOB	3	j		State Party to International Convention on the Elimination of All Forms of Racial Discrimination 1965? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> • International Convention on the Elimination of All Forms of Racial Discrimination 1965 	Yes. There are no reservations.	United Nations Treaty Collection, International Convention on the Elimination of All Forms of Racial Discrimination: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV2&chapter=4&lang=en <i>Gesetz zu dem Internationalen Übereinkommen vom 7. März 1966 zur Beseitigung jeder Form von Rassendiskriminierung, Bundesgesetzblatt, BGBl 1969 II, 961:</i> https://www.bgbl.de/xaver/bgbl/start.xav#_bgbl_%2F%2F*%5B%40attr_id%3D

International and Regional Instruments – March 2019

							%27bgbl269s0961b.pdf%27%5D_15242_40158924 (DE)
IOB	3	k		State Party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families 1990? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families 1990 	No.	United Nations Treaty Collection, International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families: https://treaties.un.org/Pages/ViewDetails.aspx?chapter=4&lang=en&mtdsg_no=IV-13&src=IND

Stateless Population Data

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
POP	1	a	Availability and sources	Does the Govt have a discrete category for statelessness in its data collection system (e.g. in the census)? If so, what are the Govt figures for the total stateless population on the territory? Is the data disaggregated? If so, how?	<ul style="list-style-type: none"> • Gen. Rec. 32 of CEDAW (para. 39): States parties should... gather, analyse and make available sex-disaggregated statistical data and trends... • European Council, Conclusions of the Council and the Representatives of the Governments of the Member States on Statelessness: Recognise the importance of exchanging good practices...concerning the collection of reliable data on stateless persons... • UNHCR Global Action Plan to End Statelessness 2014-2024 (Action 10): Improve quantitative and qualitative data on stateless populations... • Institute on Statelessness and Inclusion (The World's Stateless) pg.11: States should adopt and/or strengthen measures to count stateless persons on their territory... 	<p>Yes. The Government counts stateless people in its data collection systems.</p> <p><u>National census</u>: In 2011, the first national census after Germany's reunification counted 11,298 stateless people in the country. In addition, the census counted 130 people with 'unclear nationality' and 35,548 'without indications'.</p> <p><u>Population data</u>: The population of stateless people in Germany is listed in the GENESIS-Online Datenbank. The most recent figure is for 31 Dec 2017 when there were 24,650 stateless people recorded (Theme > Code 12: Population > Code 125: Naturalisations, Foreigners > Code 12521: Statistics on foreigners > Code ST997: Stateless. Data covers 1967-2017 (referring only to former West Germany in 1967-1989). The data is disaggregated.</p> <p><u>Naturalisation data</u>: The number of stateless people who naturalised each year is available in the GENESIS-Online Datenbank. The latest figures are for 2017, when 782 stateless people naturalised. (Theme > Code 12: Population > Code 125: Naturalisations, Foreigners > Code 12511: Naturalisation of Foreigners). Data is also available on the legal basis for naturalization and is disaggregated by federal state and district, age, sex, length of stay, and marital status.</p>	<p>Statistische Ämter des Bundes und der Länder, 'Bevölkerung nach Staat der Staatsangehörigkeit und Geschlecht für Gemeinden. Ergebnisse des Zensus am 9. Mai 2011' (10 April 2014): https://www.destatis.de/DE/Methoden/Zensus/_Downloads/1B_EinwohnerzahlNationalitaet.html (DE)</p> <p>GENESIS-Online Datenbank (GENESIS is the main database of the Statistische Bundesamt. Its data relies on the Central Register of Foreigners (Ausländerzentralregisters - AZR): https://www.destatis.de/DE/ZahlenFakten/GesellschaftStaat/Bevoelkerung/Bevoelkerung.html (DE)</p> <p>Deutscher Bundestag, Dokumentations- und Informationszentrum (Documentation and Information System for Parliamentary Processes) (see: 'Ausländerpolitik, Zuwanderung'): https://dipbt.bundestag.de/dip21.w eb/bt</p> <p>Bundesamt für Migration und Flüchtlinge, 'Statistiken': http://www.bamf.de/DE/Infothek/Statistiken/statistiken-node.html (DE)</p>

						<p><u>Asylum data:</u> The Federal Office for Migration and Refugees (Bundesamt für Migration und Flüchtlinge - BAMF) publishes monthly statistics and biannual statistical reports (<i>Das Bundesamt in Zahlen, Asylgeschäftsstatistik, Asylgeschäftsbericht, Aktuelle Zahlen zu Asyl</i>). The latest annual report shows that 6,082 asylum applications were made by people with ‘unknown’ (<i>unbekannt</i>) nationality in 2018: 1,208 ‘stateless’ (<i>staatenlos</i>); 4,849 ‘unclear’ (<i>ungeklärt</i>); and 25 ‘without indications’ (<i>ohne Angabe</i>). The data is disaggregated.</p>	<p>Aktuelle Zahlen zu Asyl: http://www.bamf.de/DE/Infothek/Statistiken/Asylzahlen/AktuelleZahlen/aktuelle-zahlen-asyl-node.html (DE)</p> <p>Asylgeschäftsbericht: http://www.bamf.de/DE/Infothek/Statistiken/Asylzahlen/Asylgesch%C3%A4ftsbericht/asylgeschaeftsbericht-node.html (DE)</p> <p>Asylgeschäftsstatistik (01-12/18): http://www.bamf.de/SharedDocs/Anlagen/DE/Downloads/Infothek/Statistik/Asyl/hkl-antragsentscheidungs-bestandsstatistik-kumuliert-2018.pdf?blob=publicationFile (DE)</p> <p>Das Bundesamt in Zahlen: http://www.bamf.de/DE/Infothek/Statistiken/Asylzahlen/BundesamtInZahlen/bundesamt-in-zahlen-node.html (DE)</p>
POP	1	b	Do Govt authorities define categories of persons who may overlap with stateless (e.g. unknown nationality, unspecified nationality, other)? Are statistics on these available? If, yes, please indicate categories and statistics.	As above	<p>Yes (see above for figures). In its asylum statistics, BAMF uses the categories ‘unclear’ and ‘without indication’, as well as ‘stateless’. The GENESIS-Online Datenbank uses ‘Unknown/ Not specified’ nationality (Code STAAT900) in its data on naturalisation and the foreign population.</p>	<p><i>Bundesamt für Migration und Flüchtlinge, Aktuelle Zahlen zu Asyl:</i> http://www.bamf.de/DE/Infothek/Statistiken/Asylzahlen/AktuelleZahlen/aktuelle-zahlen-asyl-node.html (DE)</p> <p><i>Asylgeschäftsbericht:</i> http://www.bamf.de/DE/Infothek/Statistiken/Asylzahlen/Asylgesch%C3%A4ftsbericht/asylgeschaeftsbericht-node.html (DE)</p>	

							<p><i>Asylgeschäftsstatistik:</i> http://www.bamf.de/DE/Infothek/Statistiken/Asylzahlen/Asylgesch%C3%A4ftsstatistik/asylgeschaeftsstatistik-node.html (DE)</p> <p><i>Das Bundesamt in Zahlen:</i> http://www.bamf.de/DE/Infothek/Statistiken/Asylzahlen/BundesamtInZahlen/bundesamt-in-zahlen-node.html (DE)</p> <p><i>Statistisches Bundesamt:</i> https://www.destatis.de/DE/Startseite.html (DE)</p> <p><i>GENESIS-Online Datenbank:</i> https://www-genesis.destatis.de/genesis/online/data;jsessionid=694C6C3D90C8317B845292C2E65020E3.tomcat_GO_2_3?operation=statistikenVerzeichnisNextStep&levelindex=0&levelid=1495566815428&index=3&structurelevel=2 (DE)</p>
POP	1	c		<p>What is the UNHCR estimate for the population of stateless persons and/or those at risk of statelessness on the territory? What is UNHCR's source for this information?</p>	As above	<p>UNHCR indicates that there were 13,458 stateless people in Germany in 2017 (12,017 in 2016; 12,569 in 2015; 11,917 in 2014). They do not publish any data on people at risk of statelessness in Germany. UNHCR relies on data provided by BAMF and the Central Register of Foreigners (Ausländerzentralregisters - AZR).</p>	<p>UNHCR, 'Population Statistics. Persons of concern': http://popstats.unhcr.org/en/persons_of_concern</p>

POP	1	d		<p>Are there indirect (proxy) sources of statistics on stateless persons? E.g. categories of persons for which statistics are available where stateless persons may be more highly represented (e.g. relevant country of origin or profiles (e.g. Palestinians or Syrian Kurds)? Please provide explanation and figures.</p>	As above	<p>Indirect data on stateless people can be found in the GENESIS-Online Datenbank statistics on residence permits held by foreigners (Theme > Code 12: Population > Code 125: Naturalisations, Foreigners > Code 12521: Statistics on foreigners > Code 12521-0007 Foreigners: Germany, reference date, sex, residence permit > Code RECGL2: Residence permit). Under this strand, stateless individuals can be indirectly listed under the following permits (figures for 31 Dec 2017):</p> <ul style="list-style-type: none"> • Code RECF-60A-ALT: S.60a, RA, old version, suspension of deportation (<i>Duldung</i>) (2,080 people) • Code RECF-60A-2-1: S.60a(2),1.s.,RA, suspension of deportation (<i>Duldung</i>) (0 people) • Code RECF-60A-2-1-1: S.60a(2),1.s.,RA, susp. deport., missing travel doc (<i>Duldung</i>) (65,170 people) • Code RECA-AE-01: Temp. residence permit (<i>Befristete Aufenthaltserlaubnis</i>) according to Foreigners Act (29,165 people) • Code RECA-AE-02: Unlim.residence permit (<i>Unbefristete Aufenthaltserlaubnis</i>) according to Foreigners Act (110,735 people) <p>Further indirect data on statelessness can be found under: Code 12521-0041: Foreigners: Administrative districts, reference date, sex, selected types of residence permits, citizenship > LDRDG1 Citizenship. This provides numbers for 'stateless' (ST997) and 'unknown nationality' (STAAT900), as well as other nationalities</p>	<p>Statistisches Bundesamt: https://www.destatis.de/DE/Startseite.html (DE)</p> <p>GENESIS-Online Datenbank: https://www.destatis.de/DE/ZahlenFakten/GesellschaftStaat/Bevoelkerung/Bevoelkerung.html (DE)</p> <p>Zahlen in der Bundesrepublik Deutschland lebender Flüchtlinge zum Stand 30. Juni 2016. BT-Drucksache 18/9556 (9 September 2016) 22 (DE)</p> <p>Allgemeine Anwendungshinweise des Bundesministeriums des Innern zur Duldungserteilung nach § 60a Aufenthaltsgesetz (30 Mai 2017) 2 (DE)</p>
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					<p>where stateless people might be included e.g.: Code ST224: Eritrea; Code ST459: Palestinian Territories; Code ST273: Somalia; Code ST276: Sudan (until 8 July 2011); Code ST277: Sudan (without South Sudan) (since 9 July 2011); Code ST278: South Sudan (since 9 July 2011); Code ST475: Syria. Data is disaggregated by age, migrant generation, marital status and length of stay.</p> <p>Data from the Central Register of Foreigners (<i>Ausländerzentralregisters</i>, AZR) on the foreign population holding ‘Duldung’ permits was made available to parliament on 28 Nov 2018: 177,874 people on 31 Oct 2018.</p> <p>Eurostat provides information on different lengths of residence permits issued for the first time to stateless people between 2008 and 2017. In 2017 a total of 3,178 residence permits were issued to stateless people in Germany.</p>	<p>Deutscher Bundestag, Stenografischer Bericht, Plenarprotokoll 19/67 (28. November 2018) Frage 82, 7687 http://dipbt.bundestag.de/doc/btp/19/19067.pdf (DE)</p> <p>Eurostat, First permits by reason, length of validity and citizenship: http://ec.europa.eu/eurostat/product?code=migr_resfirst&language=en&mode=view</p>	
POP	1	e		<p>Have there been surveys or mapping studies done to estimate the population of stateless persons in the country?</p>	<ul style="list-style-type: none"> • UNHCR Global Action Plan to End Statelessness 2014-2024: Action 10 	<p>No.</p>	
POP	1	f		<p>Are there other sources of estimates for the population of stateless persons (not covered by the above)? If so, list sources and figures.</p>	<p>As above</p>	<p>An ad-hoc query requested by the European Migration Network (EMN) in 2015 provided some data on travel documents issued to stateless people under the 1954 Convention.</p> <p>Eurostat provides data on First permits by reason, length of validity and citizenship, for people whose country of citizenship is recorded as ‘Stateless’: 3,178 first permits</p>	<p>EMN, Ad-Hoc Query on recognition of stateless persons. Requested by LU EMN NCP on 26th February 2015, Compilation of 4th May 2015, 16-17: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/ad-hoc-queries/ad-hoc-queries-</p>

Stateless Population Data – March 2019

						were issued to stateless people in Germany in 2017.	2015.675 lu recognition of stateless persons wider diss.pdf Eurostat, First permits by reason, length of validity and citizenship: http://ec.europa.eu/eurostat/product?code=migr_resfirst&language=en&mode=view
POP	1	g		Are there issues with reliability of stateless data? If yes, please describe why.	As above	Data in the GENESIS-Online Database and UNHCR is based on the Central Register of Foreigners (<i>Ausländerzentralregister – AZR</i>). The AZR has been criticised in the media and in parliament for holding incorrect personal data and addresses, leading to people not receiving official correspondence from the authorities and missing official appointments/subpoenas as a result. There have been brief and in-depth parliamentary enquiries (<i>Kleine oder Große Anfrage</i>) on stateless refugees and BAMF data on refugees recorded as stateless is now publicly available, but this may also be affected by problems with the AZR and without a statelessness determination procedure in place, the authorities may mis-record asylum seekers who arrive without documentation as ‘stateless’ or having ‘unclear nationality’.	Thomas Öchsner, ‘Große Lücken im Ausländer-Register’ (Süddeutsche Zeitung, 4 August 2017): http://www.sueddeutsche.de/politik/asylpolitik-grosse-luecken-im-auslaender-register-1.3615716 (DE) A brief inquiry (Kleine Anfrage), Unklare Daten des Ausländerzentralregisters zu Ausreisepflichtigen [Unclear data of the Central Register of Foreigners on persons obligated to leave] BT-Drucksache 18/12725 (14 June 2017) (DE) Flemming Krause, ‘Warum im Kreis Olpe seit 2015 rund 2000 mehr Ausländer leben’ (Westfalenpost, 1 August 2017): https://www.wp.de/staedte/kreis-olpe/seit-2015-rund-2000-mehr-auslaender-im-kreis-olpe-id211438017.html (DE)
POP	1	h		Are there indications that the stateless population is either over or under reported? Please describe.	As above	Due to the high number of people with unclear nationality, people on toleration, as well as unlisted irregular migrants, the actual number of stateless people in Germany could be underreported.	

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POP	1	i		Please provide any available figures on stateless refugees or asylum seekers (if there is data, please clarify whether Govt also counts stateless refugees and asylum seekers in the stateless population to avoid under/over reporting).	As above	The Federal Office for Migration and Refugees (BAMF) provides monthly data on asylum applications in Germany. Stateless people appear in the data since 2016, but the number is low. People with 'unclear' or 'unknown' nationality represent a larger group e.g. in 2018, 'unclear nationality' is one of the largest reported country of origin categories among people claiming asylum in Germany. Additional information on stateless refugees and asylum seekers has also been published by the Bundestag in response to parliamentary inquiries (<i>Kleine Anfrage, Große Anfrage</i>) since 2014.	<p>Bundesamt für Migration und Flüchtlinge, Asylgeschäftsstatistik: http://www.bamf.de/DE/Infothek/Statistiken/Asylzahlen/Asylgesch%C3%A4ftsstatistik/asylgeschaeftsstatistik-node.html (DE)</p> <p>Bundesamt für Migration und Flüchtlinge, Aktuelle Zahlen zu Asyl: http://www.bamf.de/DE/Infothek/Statistiken/Asylzahlen/AktuelleZahlen/aktuelle-zahlen-asyl-node (DE)</p> <p>Bundesamt für Migration und Flüchtlinge, Schlüsselzahlen Asyl 2018: http://www.bamf.de/SharedDocs/Anlagen/DE/Publikationen/Flyer/flyer-schluesselzahlen-asyl-2018.pdf?__blob=publicationFile (DE)</p> <p>Deutscher Bundestag, Dokumentations- und Informationszentrum, 'Ausländerpolitik, Zuwanderung': https://dipbt.bundestag.de/dip21.w eb/search/find_without_search_list.do;jsessionid=4E540CA9B4D324D310399D6D61557790.dip21?subjectId=19 (DE)</p>
POP	2	a	Stateless in Detention data	Number of stateless persons in immigration detention	As above and see also norms in Detention section.	Official data on stateless people in detention is unclear. Data is available only for the total number of people in detention pending deportation e.g. in Nov 2017 (129), March 2018 (82) and August 2018 (112).	Statistisches Bundesamt, Rechtspflege. Bestand der Gefangenen und Verwahrten in den deutschen Justizvollzugsanstalten nach ihrer Unterbringung auf Haftplätzen des geschlossenen und offenen Vollzugs jeweils zu den

							<p>Stichtagen 31. März, 31. August und 30. November eines Jahres: https://www.destatis.de/DE/Publikationen/Thematisch/Rechtspflege/StrafverfolgungVollzug/BestandGefangeneVerwahrtePDF_5243201.pdf?blob=publicationFile (DE)</p> <p>Deutscher Bundestag, Dokumentations- und Informationszentrum, 'Ausländerpolitik, Zuwanderung': https://dipbt.bundestag.de/dip21.web/search/find_without_search_list.do;jsessionid=4E540CA9B4D324D310399D6D61557790.dip21?subjectId=19 (DE)</p> <p>'Die Praxis der Abschiebungshaft und Fragen zum Haftvollzug' [The practice of detention pending deportation and questions concerning detention], BT-Drucksache 18/7196, (6 January 2016) (DE)</p>
POP	2	b		Are there statistics on individuals released from immigration detention who were un-removable, their country of origin and length of detention? If yes, please provide.	As above	No , each federal state (<i>Land</i>) is responsible for detention pending deportation (<i>Abschiebehaft</i>). This data is not collected on national level.	

Statelessness Determination and Status

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
IDP	1	a	Definition of a stateless person	Is there a definition of a stateless person in national law? Do the definition and exclusion provisions align with the 1954 Convention? Please provide details.	<ul style="list-style-type: none"> • UN Convention Relating to the Status of Stateless Persons, 1954: Article 1(1) and 1(2). 	<p>Yes. German law follows the definition and exclusion provisions of the 1954 Convention.</p>	<p>Gesetz zu dem Übereinkommen vom 28. September 1954 über die Rechtsstellung der Staatenlosen [Law on the Convention of 28 September 1954 on the Status of Stateless Persons], Bundesgesetzblatt (BGBl) [Federal Law Gazette] 1976 II, 473-476: https://www.bgbl.de/xaver/bgbl/s tart.xav# bgbl %2F%2F*%5B%40attr id%3D%27bgbl276s0473.pdf%27%5D_1522067556006 (German (DE))</p>
IDP	1	b	Existing SDP procedure	<p>Which of the following best describes the situation in your country?</p> <p>2. There is no dedicated SDP procedure but there are other administrative procedures by which statelessness can be identified (e.g. through citizenship, residence permit and international protection procedures or ex-officio).</p> <p><i>(continue to Q.10a)</i></p>	<ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: ... it is implicit in the 1954 Convention that States must identify stateless persons within their jurisdictions so as to provide them appropriate treatment in order to comply with their Convention commitments. • UNHCR (Good Practices Paper 6): Establishing a statelessness determination procedure is the most efficient means for States Parties to the 1954 Convention to identify the beneficiaries of that Convention. • European Council, Conclusions of the Council and the Representatives of the Governments of the Member States on Statelessness: Recognise the importance of exchanging good practices among Member States concerning... procedures for determining statelessness. 	<p>Group 2: There is no dedicated SDP, but statelessness may be identified through other administrative procedures</p>	
IDP	10	a	Alternative administrative	<p>If there is no dedicated SDP in your country, are there other administrative procedures by</p>	<ul style="list-style-type: none"> • ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices: 	<p>Yes, these include:</p> <ul style="list-style-type: none"> • Application for a travel document under Art. 28 1954 Convention 	<p>Holger Hoffmann, 'Staatenlosigkeit – Rechte und rechtliche Folgen' (2017) 9 Asylmagazin 325:</p>

			procedures for identification	which statelessness can be identified (e.g. through citizenship, residence, and international protection procedures or ex-officio)?	For SDPs to be effective, the determination must be a specific objective of the mechanism in question, though not necessarily the only one.	<ul style="list-style-type: none"> • Application/extension of residence • Application for asylum • Toleration (<i>Duldung</i>) <p>Statelessness does not constitute a determinable legal relationship (<i>feststellungsfähiges Rechtsverhältnis</i>), but it can be clarified if it is raised during another legal procedure relating to foreigners.</p>	<p>http://www.asyl.net/fileadmin/user_upload/beitraege_asylmagazin/Beitraege AM 2017/AM17 9 bei_trag_hoffmann.pdf (DE)</p> <p>Hamburgisches Oberverwaltungsgericht, OVG Hamburg, Beschluss v 11. März 2005 - 4 Bf 64/02, recital 10</p>
IDP	11	a	Access to procedures	How is statelessness identified in the course of other procedures?	<ul style="list-style-type: none"> • UNHCR (Good Practices Paper 6): Efficient referral mechanisms should be established, while officials who may be in contact with stateless persons need to be trained to identify potential applicants for statelessness status and refer them to appropriate channels. 	<p>The determination of statelessness may be initiated via an administrative procedure with the local foreigners' office to obtain and/or extend a residence permit during which a person's identity must be clarified. Toleration (<i>Duldung</i>) is not a residence permit but documents an unlawful stay and the obligation to leave the country remains. Toleration can be granted when deportation is 'suspended for as long as deportation is impossible in fact or in law and no temporary residence permit is granted.' The identification of statelessness can also be initiated during an application for a stateless person's travel document under the 1954 Convention. In all cases, the individual has an obligation to cooperate and take all reasonable measures to obtain documents. Statelessness can also be determined in asylum procedures. However, in practice this seems not to be regarded as relevant to the procedure.</p>	<p>Arts 5, 25, 48, 49, 82 Aufenthaltsgesetz (AufenthG) vom 25. Februar 2008 (BGBl 2008 I, 162), zuletzt geändert durch Artikel 1 des Gesetzes vom 12. Juli 2018 (BGBl 2018 I, 1147) [Residence Act]: https://www.gesetze-im-internet.de/aufenthg_2004/BJNR195010004.html (DE)</p> <p>Arts 1, 3, 4, 5, 5, Verordnung zur Durchführung des Zuwanderungsgesetzes vom 25. November 2004 (BGBl 2004 I, 2945), zuletzt geändert durch Artikel 1 der Verordnung vom 1. August 2017 (BGBl 2017 I, 3066) [Residence Regulation]: https://www.bgbl.de/xaver/bgbl/start.xav?start=%2F%2F%5B%40attr_id%3D%27bgbl104s2945.pdf%27%5D#_bgbl_%2F%2F%5B%40attr_id%3D%27bgbl104s2945.pdf%27%5D_1524254199877 (DE)</p> <p>Arts 48.3, 49.3, Allgemeine Verwaltungsvorschrift zum Aufenthaltsgesetz vom 26.</p>

							<p>Oktober 2009 (GMBI 2009, 878) [General Administrative Regulation for the Residence Act]: http://www.verwaltungsvorschriften-im-internet.de/bsvwvbund_26102009_MI_31284060.htm (DE)</p> <p>Holger Hoffmann, 'Staatenlosigkeit – Rechte und rechtliche Folgen' (2017) 9 Asylmagazin 327-329: http://www.asyl.net/fileadmin/user_upload/beitraege_asylmagazin/Beitraege_AM_2017/AM17_9_beitrag_hoffmann.pdf (DE)</p>
IDP	11	b		Are there obligations in law on authorities to consider a claim for statelessness made within another procedure?	See norm above at question IDP 2e.	No.	
IDP	11	c		Are there clear instructions on how to make a claim for statelessness within the particular administrative procedure?	See norm above at question IDP 2b.	There does not seem to be any accessible information on the specific steps to take for stateless people. Information provided mainly relates to asylum. Information is available on how to apply for a travel document under the 1954 Convention at district/municipality level.	<p>Düsseldorf, 'Reiseausweis für Flüchtlinge oder Staatenlose' (DE)</p> <p>Berlin.de, Service-Portal Berlin, 'Reiseausweis – Neuausstellung' (DE)</p>
IDP	11	d		Is the examination of statelessness conducted by a centralized or localised body?	See norm above at question IDP 2j.	The examination takes place at a local level. For applications under the Residence Act, the local foreigners' office competent for the place of residence of the applicant conducts the examination.	<p>Aufenthaltsgesetz (AufenthG) vom 25. Februar 2008 (BGBl 2008 I, 162), zuletzt geändert durch Artikel 1 des Gesetzes vom 12. Juli 2018 (BGBl 2018 I, 1147) [Residence Act]: https://www.gesetze-im-internet.de/aufenthg_2004/BJNR195010004.html (DE)</p>
IDP	11	e		Is there training to inform different governmental bodies about statelessness and	See norm above at question IDP 2k.	No, although there have been ad hoc training sessions offered in the past	<p>See for example Kommunales Bildungswerk: https://www.kbw.de/seminare</p>

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				determination procedures? Is there training of public officials in identifying statelessness? If yes, please provide details (i.e. who provides the training to whom and how often?)		on topics related to refugees and nationality status.	
IDP	11	f		Is there cooperation between agencies that may come into contact with stateless persons? If so, how are cases referred to the appropriate authority for determination?	See norm above at question IDP 2I.	There is no evidence of cooperation between agencies.	
IDP	12	a	Assessment	What is the burden of proof when identifying an individual's statelessness status?	See norm above at question IDP 4a.	The burden of proof lies on the applicant, who must fulfil the duty of cooperation and initiative, while the authority has the obligation to notify and to impose. The obligations of both parties are mutually interrelated and have mainly been shaped by jurisprudence. The burden is on the applicant to present any possible certificate, document, medical certificate, voluntary DNA test, etc. to clarify their situation. The authorities are not obliged to gather information on case relevant facts concerning the individual abroad. A failure to cooperate can lead to fines. Reasonable steps are considered to be any that can be made by the applicant personally - e.g. repeated presentation at an embassy is unreasonable if it is clear that this would be unsuccessful, after repeated failed attempts. The Federal Administrative Court has stated the individual should present, e.g.: information on the previous residence and place of birth; own name and family members' names in direct line to great-grandparents, when	Arts 3, 48, 49, 82, 82, 98 <i>Aufenthaltsgesetz (AufenthG) vom 25. Februar 2008 (BGBl 2008 I, 162), zuletzt geändert durch Artikel 1 des Gesetzes vom 12. Juli 2018 (BGBl 2018 I, 1147)</i> [Residence Act]: https://www.gesetze-im-internet.de/aufenthg_2004/BJNR195010004.html (DE) Art 56, <i>Aufenthaltsverordnung (AufenthV) vom 25. November 2004 (BGBl 2004 I, 2945), zuletzt geändert durch Artikel 1 der Verordnung vom 1. August 2017 (BGBl 2017 I, 3066)</i> [Residence Regulation]: https://www.gesetze-im-internet.de/aufenthv/BJNR294510004.html (DE) Arts 25.5.4, 48.3, 49.3, 82 – 82.1.2, 82.3 – 82.4.2.3 <i>Allgemeine Verwaltungsvorschrift zum Aufenthaltsgesetz (AufenthG-VwV) vom 26.10.2009 (GMBI 2009, 878)</i> [General Administrative Regulation for the Residence

					<p>these are known; evidence of an attempt to naturalise in the state of origin, unless this is unreasonable due to discrimination or danger to life and limb; proof of identity through relatives or registries, and proof that s/he lived as a stateless person in the state of origin, as far as this is reasonable. When some facts, such as impossibility to leave, may be difficult to establish, or some documents difficult to obtain, the burden of proof is shared between the applicant and the government.</p>	<p>Act]:http://www.verwaltungsvorschriften-im-internet.de/bsvwvbund_26102009_MI31284060.htm (DE)</p> <p>Boris Franßen-de la Cerda, <i>'Die Verpflichtung des Ausländers zur Mitwirkung (§ 82 AufenthG)'</i> (2010) 3 ZAR (DE)</p> <p>On the obligation to cooperate, see also: BVerwG, Beschluss v 30.12.1997 - 1 B 223/97 - juris Rn 6f; OVG BB, Beschluss v 10.7.2013 - OVG 3 N 144.12 - juris Rn 5f mit Verweis auf BVerwG, Urteil v 17.3.2004 - 1 C 1/03 - juris Rn 30ff.; VGH BW, Urteil v 17.12.2003 - 13 S 2113/01 - juris Rn 35 f (DE)</p> <p><i>Rechtslupe, 'Identitätsfeststellung – und die Aufforderung zur Vorsprache bei der Botschaft'</i> (2014) (DE)</p> <p>BVerwG, Urteil v 17.03.2004 - 1 C 1.03. VG Saarland v 18.07.2008 – 6 K 0106/06. BVerG v 15.06.2006 – 1 B 54.06. Buchholz 402.242, §25 AufenthG, Nr 4 (DE)</p> <p>Dr. Friedrich Schoch in Schoch, Schneider, Bier, <i>Verwaltungsgerichtsordnung. VwGO (32. EL, CH Beck 2016) § 123 recital 97</i></p>
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IDP	12	b		<p>What is the standard of proof? Is it the same as in asylum applications?</p>	<p>See norm above at question IDP 4b.</p>	<p>In theory, only one standard of proof is in place: beyond reasonable doubt. However, in practice judges apply a less rigid approach in asylum and statelessness cases and accept a lower standard. The burden to persuade relies on the individual.</p>	<p>Art. 48, 49, 82 <i>Aufenthaltsgesetz (AufenthG) vom 25. Februar 2008 (BGBl 2008 I, 162), zuletzt geändert durch Artikel 1 des Gesetzes vom 12. Juli 2018 (BGBl 2018 I, 1147) [Residence Act]: https://www.gesetze-im-inter-net.de/aufenthg_2004/BJNR195010004.html (DE)</i></p> <p>Art 15, <i>Asylgesetz in der Fassung der Bekanntmachung vom 2. September 2008 (BGBl 2008 I, 1798), zuletzt geändert durch Artikel 2 des Gesetzes vom 20. Juli 2017 (BGBl 2017 I, 2780)[Asylum Act]: https://www.bgbl.de/xaver/bgbl/start.xav?start=//%5B@attr_id=%27bgbl108s1798.pdf%27%5D#_bgbl_%2F%2F%5B%40attr_id%3D%27bgbl108s1798.pdf%27%5D_1524257162642 (DE)</i></p> <p>Juliane Kokott, <i>The Burden of Proof in Comparative and International Human Rights Law (Springer 1998) 22-24</i></p> <p>Case law:</p>

							VG Schleswig-Holstein, Urteil vom 13.06.2007 - 4 A 34/07 (DE)
IDP	12	c		Are decision makers presented with clear guidance on how to determine statelessness, including sources of evidence and procedures for evidence gathering to establish statelessness? Please provide details.	<ul style="list-style-type: none"> • ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices: determining authorities can benefit significantly from any concrete guidance that sets clear benchmarks and pathways for the establishment of material facts and circumstances. 	There is no clear or binding guidance on how to determine statelessness. The federal states (<i>Länder</i>) follow their own rules based upon the General Administrative Regulations for the Nationality Act, which briefly mention stateless people in relation to acquisition of nationality, prevention of statelessness, vulnerable groups and renunciation of nationality. The General Administrative Regulation for the Residence Act give some (vague) instructions on e.g. the procedures for collecting evidence (what are reasonable/unreasonable steps).	<p>Arts 3, 4.4.1, 8.1.3.1, 18 <i>Allgemeine Verwaltungsvorschrift zum Staatsangehörigkeitsrecht (StAR-VwV) vom 13. Dezember 2000</i> [General Administrative Regulation for the Nationality Act]: http://www.verwaltungsvorschriften-im-internet.de/bsvwbund_13122000_V612400513.htm (DE)</p> <p>See for example Art 25.5.4, <i>Allgemeine Verwaltungsvorschrift zum Aufenthaltsgesetz (AufenthG-VwV) vom 26.10.2009</i> (GMBI 2009, 878) [General Administrative Regulation for the Residence Act]: http://www.verwaltungsvorschriften-im-internet.de/bsvwbund_26102009_MI31284060.htm (DE)</p>
IDP	13	a	Procedural Protections	Is there legal aid available during the application?	<ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: applicants are to have access to legal counsel; where free legal assistance is available, it is to be offered to applicants without financial means. • ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices: If state funded legal aid is available in the country it should be provided to stateless claimants. If there is no state funded legal aid... but asylum claimants can access legal aid free of charge, then the same level of access should be provided to stateless claimants. 	There is no specific regulation to receive legal aid during the process. However, stateless people can obtain legal aid under the same conditions as any other foreigner, i.e. by demonstrating that they are financially in need of assistance, that their case has sufficient prospects of success and is not frivolous. They have to be registered in the local register, which can be challenging for irregular migrants (although they are not excluded from legal aid by law) as the evidence required may not be accessible to them (e.g. documents related to income, address, rental	<p>Art 2, 86-87 <i>Aufenthaltsgesetz (AufenthG) vom 25. Februar 2008</i> (BGBl 2008 I, 162), <i>zuletzt geändert durch Artikel 1 des Gesetzes vom 12. Juli 2018</i> (BGBl 2018 I, 1147) [Residence Act]: https://www.gesetze-im-internet.de/aufenthg_2004/BJNR195010004.html (DE)</p> <p>Art 1, <i>Gesetz über Rechtsberatung und Vertretung für Bürger mit geringem Einkommen (Beratungshilfegesetz - BerHG) vom 18.06.1980</i> (BGBl I 1980,</p>

						<p>agreement) or they may not want to provide it because they fear deportation. The courts where the application for legal aid must be made can inform the immigration authorities of illegally staying persons. Refugee Councils, NGOs (eg. ProAsyl), as well as Refugee Law Clinics and the church (eg. Caritas and Diakonie) provide legal assistance to foreigners, including stateless persons.</p>	<p>689), zuletzt geändert durch Artikel 140 der Verordnung vom 31.08.2015 (BGBl I 2015, 1474) [Act on legal advice and representation for citizens with low incomes - Legal Advice Act]: https://www.gesetze-im-internet.de/berathig/BJNR006890980.html (DE)</p> <p>Art 114, Zivilprozessordnung (ZPO) vom 5. Dezember 2005 (BGBl 2005 I, 3202; 2006 I 431; 2007 I 1781), zuletzt geändert durch Artikel 2 des Gesetzes vom 12. Juli 2018 (BGBl 2018 I, 1151) [Civil Procedure Code]: https://www.gesetze-im-internet.de/zpo/ZPO.pdf (DE)</p> <p>Art 166, Verwaltungsgerichtsordnung (VwGO) vom 19. März 1991 (BGBl 1991 I, 686), zuletzt geändert durch Gesetz vom 12. Juli 2018 (BGBl 2018 I, 1151) mWv 1 November 2018 [Administrative Procedure Code]: https://dejure.org/gesetze/VwGO (DE)</p> <p>BT-Drucks 8/3694, 17 in Ingo Michael Groß, Beratungshilfe, Prozesskostenhilfe, Verfahrenskostenhilfe (13th edn, CF Müller 2015) 144, recital 2</p> <p>Office of the High Commissioner for Human Rights' Compilation Report - Universal Periodic Review:</p>
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							<p>Germany' (2013) 5: https://documents-dds-ny.un.org/doc/UN-DOC/GEN/G13/109/05/PDF/G1310905.pdf?OpenElement</p> <p>Melanie Kößler, Tobias Mohr and Heiko Habbe, 'Aufenthaltsrechtliche Illegalität. Beratungshandbuch 2013' (3rd edn, Deutsches Rotes Kreuz and Caritas 2012) 65-67, 79-81</p> <p>Refugee Councils (Flüchtlingsräte): http://www.fluechtlingsrat.de (DE) Pro Asyl, 'Unsere Einzelfallhilfe' https://www.proasyl.de/unsere-einzelfallhilfe/ (DE) Diakonie, 'Flüchtlingsberatung' (DE)</p>
IDP	13	b	Is an interview always offered (unless granting without interview)?	<ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: The right to an individual interview, and necessary assistance with translation/interpretation throughout the process, are essential to ensure that applicants have the opportunity to present their cases fully... 	An in-depth interview (<i>Befragung</i>) is carried out to gather reference points for further investigations (e.g. questioning of witnesses, inquiries to other authorities in Germany and abroad etc.). In practice, the foreigners' office carries out an oral hearing.	<p>Art 48 Aufenthaltsgesetz (<i>AufenthG</i>) vom 25. Februar 2008 (BGBl 2008 I, 162), zuletzt geändert durch Artikel 1 des Gesetzes vom 12. Juli 2018 (BGBl 2018 I, 1147) [Residence Act]: https://www.gesetze-im-internet.de/aufenthg_2004/BJNR195010004.html (DE)</p> <p>49.3, Allgemeine Verwaltungsvorschrift zum Aufenthaltsgesetz (<i>AufenthG-VwV</i>) vom 26.10.2009 (GMBI 2009, 878) [General Administrative Regulation for the Residence Act]> http://www.verwaltungsvorschrift-en-im-internet.de/bsvwwvbund_26102009_MI31284060.htm (DE)</p>	

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IDP	13	c		Is an interpreter provided? Free of charge?	<ul style="list-style-type: none"> • ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices: assistance should be available for translation and interpretation in respect of written applications and interviews (good practice is free of charge). 	The official language is German, and no interpreter is provided. The applicant may find and pay for their own interpreter. In practice, friends and family support the applicant.	Art 23, Verwaltungsverfahrensgesetz vom 23. Januar 2003 (BGBl I 2003, 102), zuletzt geändert durch Artikel 11 Absatz 2 des Gesetzes vom 18. Juli 2017 (BGBl I 2017, 2745) [Administrative Procedures Act]: https://www.bgbl.de/xaver/bgbl/start.xav#bgbl_%2F%2F*%5B%40attr_id%3D%27bgbl103s0102.pdf%27%5D_1524817836862 (DE)
IDP	13	d		Are decisions given with reasons? In writing?	<ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: States are encouraged, therefore, to incorporate the following safeguards: [...] decisions are made in writing with reasons. 	Yes, decisions are given in writing.	Andreas Dietz, Ausländer- und Asylrecht. Einführung (UTB 2016) 63, recital 115
IDP	14	a	Stateless Status	Does identification of a person as stateless result in permission to stay/legal status or any other benefit to the individual? Please describe what status is provided and what benefits attach to it.	<ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: The 1954 Convention ...[grants] stateless persons a core set of rights. Its provisions, along with applicable standards of international human rights law, establish the minimum rights and the obligations of stateless persons in States party to the 1954 Convention. The status granted to a stateless person in a State Party... must reflect these international standards... Although the 1954 Convention does not explicitly require States to grant a person determined to be stateless a right of residence, granting such permission would fulfil the object and purpose of the treaty... It is therefore recommended that States grant persons recognised as stateless a residence permit valid for at least two years, although permits for a longer duration, such as five years, are preferable in the interests of stability. Such permits are to be renewable, providing the possibility of facilitated 	In practice, it seems stateless status is rarely granted, and most people are recorded as 'nationality unclear', which is not in line with case law. Under the Residence Act, a person becomes eligible for temporary residence (<i>befristete Aufenthaltserlaubnis</i>) when departure is impossible in fact or law, and obstacles to deportation are not likely to be removed in the foreseeable future, the applicant is not preventing departure and is actively seeking to obtain necessary documents. A residence permit should be granted if deportation has been suspended for 18 months and can be issued and renewed up to 3 years. If the person has lawfully stayed less than 18 months, it can only be granted and renewed for 6 months. In practice, administrations do not always give a permit after a period of 18 months on toleration.	Fachanwaltslehrgang Migrationsrecht des Deutschen Anwaltsinstitut e.V. Teil 2. Fortsetzung Allgemeines Aufenthaltsrecht: Durchsetzung der Ausreisepflicht, insbesondere Duldung, Abschiebung und Abschiebungshaft (062201) - in Bochum am 13. Mai 2016. Referent: Dr. Reinhard Marx` (2016) 5 Burkhard Peters, 'Übersicht über die möglichen rechtlichen Aufenthaltsarten für Flüchtlinge in Deutschland' (April 2014) 5 (DE) BVerwG, 12.02.1985, NVwZ 1985, 589; BVerwG, 15.10.1985, NVwZ 1986, 759; OVG Berlin, Urteil v 18.04.1991 - OVG 5 B 41.90 ; VG Berlin, Urteil v 12.06.1985 - 11 A

					<p>naturalization as prescribed by Article 32 of the 1954 Convention.</p>	<p>The determination of statelessness itself does not lead to a right to residence.</p>	<p>655.84; VG Berlin, 12.06.1985, InfAusIR 1985, 237-238; VG Berlin, Urteil v 24.02.1988 - 23 A 341.87; VG Berlin, 24.02.1988, InfAusIR 1988, 174, 176</p> <p>Art 25-26, Aufenthaltsgesetz (AufenthG) vom 25. Februar 2008 (BGBl 2008 I, 162), zuletzt geändert durch Artikel 1 des Gesetzes vom 12. Juli 2018 (BGBl 2018 I, 1147) [Residence Act]: https://www.gesetze-im-inter-net.de/aufenthg_2004/BJNR195010004.html (DE)</p> <p>25.5.2 Allgemeine Verwaltungsvorschrift zum Aufenthaltsgesetz (AufenthG-VwV) vom 26.10. 2009 (GMBI 2009, 878) [General Administrative Regulation for the Residence Act]: http://www.verwaltungsvorschriften-im-inter-net.de/bsvwvbund_26102009_MI_31284060.htm (DE)</p> <p>EMN, Ad-Hoc Query on recognition of stateless persons. Requested by LU EMN NCP on 26th February 2015, Compilation of 4th May 2015: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/ad-hoc-queries/ad-hoc-queries-</p>
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Detention

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
DET	1	a	Detention screening	Are immigration detention powers provided for in law?	<ul style="list-style-type: none"> • ICCPR Art 9 (1): Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law. • ECHR Art 5 (1): Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law: ... (f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition. 	<p>Yes. The order for detention pending deportation is regulated federally (<i>bundeseinheitlich</i>). Implementation is a matter for the federal state (<i>Bundesland</i>) and may vary. German law provides for the right to life and physical integrity and states that the freedom of the person shall be inviolable. These rights may be interfered with only pursuant to a law. Authorities must act as quickly as possible and limit the duration of detention to the shortest possible time. Liberty of the person may only be restricted pursuant to law and prescribed procedures. Persons in custody may not be subjected to mental or physical mistreatment. Only a judge may rule on the permissibility or continuation of any deprivation of liberty. If such a deprivation is not based on a judicial order, a judicial decision shall be obtained without delay. The Residence Act sets out the types and procedures for detention in relation to deportation, expulsion, removal, the conditions to detain and the duration of (maximum) detention periods. Further guidance on specific measures is provided by the General Administrative Regulation for the Residence Act. The Act on Proceedings in</p>	<p>Arts 2, 20, 83,84,104, Grundgesetz für die Bundesrepublik Deutschland in der im Bundesgesetzblatt Teil III, Gliederungsnummer 100-1, veröffentlichten bereinigten Fassung, zuletzt geändert durch Artikel 1 des Gesetzes vom 13. Juli 2017 (BGBl 2017 I, 2347) [Basic Law]: https://www.gesetze-im-internet.de/gg/ (DE)</p> <p>Umsetzung der Abschiebungsrichtlinie der Europäischen Union und die Praxis der Abschiebungshaft [Implementation of the return directive of the European Union and the practice of detention pending deportation] BT-Drucksache 17/10597 (5 September 2012) (DE)</p> <p>For guidelines on federal state level, see for example the case of North Rhine – Westphalia: Richtlinien für die Abschiebungshaft im Land Nordrhein-Westfalen (Abschiebungshaft-richtlinien - AHaftRL). Runderlass des Ministeriums für Inneres und Kommunales - 121-39.21.01-2-AHaftRL - vom 8. Juni 2016: https://recht.nrw.de/lmi/owa/br_vbl_detail_text?anw_nr=7&vd_id=15682&ver=8&val=15682&sg=2&menu=1&vd_back=N (DE)</p> <p>Aufenthaltsgesetz (AufenthG) vom 25. Februar 2008 (BGBl 2008 I, 162), zuletzt geändert durch Artikel 1 des Gesetzes vom 12. Juli 2018 (BGBl 2018 I, 1147) [Residence Act]: https://www.gesetze-im-internet.de/aufenthg_2004/BJNR195010004.html (DE)</p>

					<p>Family Matters and in Matters of Non-contentious Jurisdiction sets out the procedures and rules related to deprivation of liberty (corresponding courts, deadlines, content of documents, legal aid and advice, rights of the individual affected, among others). The Courts Constitution Act determines the competent court.</p>	<p>58.0.1, Allgemeine Verwaltungsvorschrift zum Aufenthaltsgesetz (AufenthG-VwV) vom 26.10.2009 (GMBI 2009, 878) [General Administrative Regulation for the Residence Act]: http://www.verwaltungsvorschriften-im-internet.de/bsvwvbund_26102009_MI3128406_0.htm (DE)</p> <p>Gesetz über das Verfahren in Familiensachen und in den Angelegenheiten der freiwilligen Gerichtsbarkeit (FamFG) vom 17. Dezember 2008 (BGBl 2008 I, 2586, 2587), zuletzt geändert durch Artikel 7 des Gesetzes vom 20. Juli 2017 (BGBl 2017 I, 2780) [Act on Proceedings in <Family Matters and in Matters of Non-contentious Jurisdiction] https://www.gesetze-im-internet.de/famfg/ (DE)</p> <p><i>Gerichtsverfassungsgesetz (GVG) vom 9. Mai 1975 (BGBl 1975 I, 1077), zuletzt geändert durch Artikel 1 des Gesetzes vom 12. Juli 2018 (BGBl 2018 I, 1151) [Courts Constitution Act]: https://www.gesetze-im-internet.de/gvg/GVG.pdf (DE)</i></p> <p>Reinhard Marx, Aufenthalts-, Asyl- und Flüchtlingsrecht. Handbuch (6th edn, Nomos 2017) 828-835</p>	
DET	1	b		<p>Does domestic law allow immigration detention for purposes other than those allowed under ECHR 5(1)(f)?</p>	<ul style="list-style-type: none"> • ECHR Art 5 (1)(f) 	<p>No, the conditions of ECHR 5(1)(f) apply. Different types of immigration detention are provided for in German law (Residence Act, Art. 15(5-6).</p>	<p>Art. 15(5-6), Aufenthaltsgesetz (AufenthG) vom 25. Februar 2008 (BGBl 2008 I, 162), zuletzt geändert durch Artikel 1 des Gesetzes vom 12. Juli 2018 (BGBl 2018 I, 1147) [Residence Act]: https://www.gesetze-im-internet.de/aufenthg_2004/BJNR195010004.html (DE)</p> <p>62, Allgemeine Verwaltungsvorschrift zum Aufenthaltsgesetz (AufenthG-VwV) vom</p>

							26.10.2009 (GMBI 2009, 878) [General Administrative Regulation for the Residence Act]: http://www.verwaltungsvorschriften-im-internet.de/bsvwbund_26102009_MI3128406_0.htm (DE)
							Reinhard Marx, Aufenthalts-, Asyl- und Flüchtlingsrecht. Handbuch (6th edn, Nomos 2017) 832 recital 8
DET	1	c	Does a proposed country of removal need to be identified before a person is detained for the purpose of removal? Please describe the situation in law and in practice.	<ul style="list-style-type: none"> • ICCPR Art 7: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Repeated attempts to expel a person to a country where his/her well-being is not guaranteed and where he/she could be subject to cruel, inhuman or degrading treatment or punishment or to a country that is refusing to admit the individual in question could amount to inhuman or degrading treatment. • ECHR Art 5 (1)(f) • Aaad v Bulgaria [2011] Application no 46390/10 (ECtHR): ...the only issue is whether or not the authorities were sufficiently diligent in their efforts to deport the applicant. • EU Returns Directive: Any detention shall be for as short a period as possible and only maintained as long as removal arrangements are in progress and executed with due diligence. • ECRE, Point of No Return: The Futile Detention of Unreturnable Migrants, 2014: Once un-returnability is established, migrants should not be detained. 	Yes. Under the Residence Act , the notice of intention to deport should specify the state to which the person is to be deported. Under the General Administrative Regulation for the Residence Act , the country of destination shall only be indicated in the case of a stateless person, if there exists the real possibility of deportation to a particular state and a deportation attempt can be made after consultation with the competent authorities. Under the Act on Proceedings in Family Matters of Non-Contentious Jurisdiction the application shall contain the grounds, including the obligation of the person concerned to leave the federal territory, the prerequisites and the feasibility of deportation, removal, and refusal of entry. In practice, however, the authorities do not strictly apply the law. Some states refuse to receive the individual, which may only come to light during detention.	<p>Art 59, Aufenthaltsgesetz (AufenthG) vom 25. Februar 2008 (BGBl 2008 I, 162), zuletzt geändert durch Artikel 1 des Gesetzes vom 12. Juli 2018 (BGBl 2018 I, 1147) [Residence Act]: https://www.gesetze-im-internet.de/aufenthg_2004/BJNR195010004.html (DE)</p> <p>59.2.2, Allgemeine Verwaltungsvorschrift zum Aufenthaltsgesetz (AufenthG-VwV) vom 26.10.2009 (GMBI 2009, 878) [General Administrative Regulation for the Residence Act]: http://www.verwaltungsvorschriften-im-internet.de/bsvwbund_26102009_MI3128406_0.htm (DE)</p> <p>Art 417(2), Gesetz über das Verfahren in Familiensachen und in den Angelegenheiten der freiwilligen Gerichtsbarkeit (FamFG) vom 17. Dezember 2008 (BGBl 2008 I, 2586-2587), zuletzt geändert durch Artikel 7 des Gesetzes vom 20. Juli 2017 (BGBl 2017 I, 2780) [Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction]: https://www.gesetze-im-internet.de/famfg/ (DE)</p> <p>Caselaw on the information about the country that an individual is deported to:</p>	

						<p>BGH, Beschluss v 21.03.2013 – V ZB 122/12; BGH, Beschluss v 19.06.2013 – V ZB 30/13; BGH, Beschluss v 04.07.2013 – V ZB 37/12; BGH, Beschluss v 12.09.2013 – V ZB 171/12, V ZB 85/12 (DE)</p> <p>Caselaw on the lack of an identified country: BGH, Beschluss v 6. 10. 2011 – V ZB 140/11; BGH, Beschluss v 16.6.2016 - V ZB 12/15 (DE)</p> <p>Caselaw on the situation with Lebanon, see: OVG Brandenburg, Urteil v 1.07.2004 – 4 A 747/03; VG Berlin, Urteil v 24.07.2007 – 27 A 180.06; VG Freiburg, Urteil v 24.04.2008 – 4 K 280/06; VG Berlin, Urteil v 25. August 2011 - 35 K 202.11 (DE)</p> <p>Caselaw on Palestinians: OVG Berlin-Brandenburg, Urteil v 25.11.2014 - 3 B 4.12 (DE)</p>	
DET	1	d		<p>Is statelessness a juridically relevant fact in any decision to detain (in practice and in law)? If so, at what point(s) is a risk of statelessness identified? Is referral to an SDP possible within the detention regime?</p>	<ul style="list-style-type: none"> • Auad v Bulgaria [2011] Application no 46390/10 (ECtHR): as above. • UNHCR (2014), Handbook on Protection of Stateless Persons: Routine detention of individuals seeking protection on the grounds of statelessness is arbitrary... For stateless persons, the absence of status determination procedures to verify identity or nationality can lead to prolonged or indefinite detention. SDPs are therefore an important mechanism to reduce the risk of prolonged and/or arbitrary detention. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 13 – states must identify stateless persons within their territory or 	<p>If deportation will not be carried out due to factual grounds (e.g. difficulties to obtain a passport, or unwillingness of the country of destination to receive the individual), detention to secure deportation cannot be ordered. If the country of destination categorically does not issue home travel documents (<i>Heimreisepapiere</i>) within 3 months, detention cannot be ordered. However, according to caselaw, even if the identity of the individual cannot be determined but the country of destination for deportation is willing to receive them, deportation can be carried</p>	<p>Reinhard Marx, Aufenthalts-, Asyl- und Flüchtlingsrecht. Handbuch (6th edn, Nomos 2017) 832 recital 8</p> <p>59.2.2, Allgemeine Verwaltungsvorschrift zum Aufenthaltsgesetz (AufenthG-VwV) vom 26.10.2009 (GMBL 2009, 878) [General Administrative Regulation for the Residence Act]: http://www.verwaltungsvorschriften-im-internet.de/bsvwvbund_26102009_MI3128406_0.htm (DE)</p> <p>OLG München, AuAS 2007, 42-43, in Reinhard Marx, Aufenthalts-, Asyl- und Flüchtlingsrecht. Handbuch (6th edn, Nomos 2017) 845, recital 26: VGH Bayern, InfAuslR 1994, in 30 Holger Hoffmann,</p>

				<p>subject to their jurisdiction as a first step towards ensuring the protection of their human rights.</p> <ul style="list-style-type: none"> • International Commission of Jurists, Migration and International Human Rights Law: a Practitioner’s Guide 2014: the detention of stateless persons can never be justified when there is ‘no active or realistic progress towards transfer to another State’. 	<p>out. A stateless individual can be deported to a country of former nationality (if the person has become stateless in the meantime), even if it is not clear that the country of destination is willing to receive the person. From the perspective of administrative (not legal) practice, it is only possible to establish a factual impossibility to deport after several unsuccessful attempts. It should be noted that the authorities tend to categorise statelessness as ‘unclear nationality’ until it is determined, so the person should cooperate to obtain the necessary documents to establish their statelessness.</p>	<p>‘Staatenlosigkeit – Rechte und rechtliche Folgen’ (2017) 9 Asylmagazin 334 (DE)</p>
	1	e	<p>Are stateless persons detained in practice? Please provide figures and source of information if available.</p>	<ul style="list-style-type: none"> • Aaad v Bulgaria [2011] Application no 46390/10 (ECtHR): as above. • UNHCR (2014), Handbook on Protection of Stateless Persons: as above. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: as above. • International Commission of Jurists, Migration and International Human Rights Law: a Practitioner’s Guide 2014: as above. 	<p>Yes, see POP 2a and DET 1c.</p>	
DET	1	f	<p>Does law (and/or policy) provide that immigration detention should be used only as a last resort, after all alternatives to detention have been exhausted?</p>	<ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: Detention is therefore a measure of last resort and can only be justified where other less invasive or coercive measures have been considered and found insufficient to safeguard the lawful governmental objective pursued by detention. • EU Returns Directive: Art 15(1) Unless other sufficient but less coercive measures can be applied effectively in a specific case, Member 	<p>Yes.</p>	<p>Art. 62, <i>Aufenthaltsgesetz (AufenthG) vom 25. Februar 2008 (BGBl 2008 I, 162)</i>, zuletzt geändert durch Artikel 1 des Gesetzes vom 12. Juli 2018 (BGBl 2018 I, 1147) [Residence Act]: https://www.gesetze-im-internet.de/aufenthg_2004/BJNR195010004.html (DE)</p> <p>See also: Winkelmann, ‘AufenthG §62 Abschiebungshaft’, in Bergmann/ Dienelt,</p>

					States may only keep in detention a third-country national who is the subject of return procedures in order to prepare the return and/or carry out the removal process.		Ausländerrecht (CH Beck, 11. Auflage 2016) 62(1).
DET	1	h		Are individual vulnerability assessments carried out before a decision to detain (or shortly thereafter), and are stateless persons defined as a vulnerable group?	<ul style="list-style-type: none"> • ENS (2015) Protecting Stateless Persons from Arbitrary Detention: a regional toolkit for practitioners: Arbitrary and disproportionately lengthy detention can ensue when the particular vulnerabilities of stateless persons are not understood and addressed... • EU Returns Directive: Art 16(3) Particular attention shall be paid to the situation of vulnerable persons... • UNHCR (2012), Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention: The special circumstances and needs of particular asylum-seekers must be taken into account... • Council of the European Union Guidelines to Promote and Protect the Enjoyment of All Human Rights by Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Persons 2013: European entities should assess the situation of LGBTI persons in detention... 	<p>Yes. The federal states are responsible for the identification of vulnerability, but in practice the process lacks rigor. Statelessness is not considered a vulnerability factor within this assessment. See also DET 2a.</p>	<p>Art 62, <i>Aufenthaltsgesetz (AufenthG) vom 25. Februar 2008 (BGBl 2008 I, 162)</i>, zuletzt geändert durch Artikel 1 des Gesetzes vom 12. Juli 2018 (BGBl 2018 I, 1147) [Residence Act]: https://www.gesetze-im-internet.de/aufenthg_2004/BJNR195010004.html (DE)</p> <p>62.0.5, Allgemeine Verwaltungsvorschrift zum Aufenthaltsgesetz (AufenthG-VwV) vom 26.10.2009 (GMBI 2009, 878) [General Administrative Regulation for the Residence Act]: http://www.verwaltungsvorschriften-im-internet.de/bsvwvbund_26102009_MI3128406_0.htm (DE)</p> <p>On the lack of examinations: Janne Grote, ‘The use of detention and alternatives to detention in Germany. Study by the German National Contact Point for the European Migration Network (EMN)’ (Working Paper 59, Federal Office for Migration and Refugees 2014) 30</p> <p>For rules on federal state level, for example Rhineland-Palatinate: Anwendungshinweise des Ministeriums für Integration, Familie, Kinder, Jugend und Frauen zur Abschiebungshaft nach § 62 des Aufenthaltsgesetzes (AufenthG) vom 15. August 2013 (Az.: 19 344/725) [Application notes of the Ministry of Integration, Family, Children, Youth and Women on detention pending deportation according to article 62 of the Residence Act of 15 August 2013]</p>

DET	2	a	<p>Alternatives to immigration detention</p>	<p>Does the country have alternatives to detention which individuals are considered for prior to any decision to detain? Are alternatives to detention established in law? Are they subject to a statutory time limit and periodic reviews of their necessity and proportionality?</p>	<ul style="list-style-type: none"> • ICCPR Art 9 • FKAG v Australia (HRC): Any decision relating to detention must take into account less invasive means of achieving the same ends... • UN General Assembly Resolution on the protection of migrants 63/184 2009: Calls upon all States ... to adopt, where applicable, alternative measures to detention. • UNHCR (2014), Handbook on Protection of Stateless Persons: Detention...can only be justified where other less invasive or coercive measures have been considered and found insufficient... Alternatives to detention...are part of any assessment of the necessity and proportionality of detention. • UNHCR (2012), Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention : alternatives to detention refers to any legislation, policy or practice that allows asylum-seekers to reside in the community subject to a number of conditions or restrictions on their freedom of movement and since they can involve restrictions on movement of liberty they are bound by human right standards. • Human Rights Council (HRC), Report of the Special Rapporteur on the human rights of migrants, François Crépeau (2012) A/HRC/20/24: Alternatives to detention should not become alternatives to unconditional release [...] the obligation to always consider alternatives to detention (non-custodial measures) before resorting to detention should be established by law. • Council of Europe (2005), Twenty Guidelines of the Committee of Ministers of Europe on Forced Return: After a careful 	<p>Yes. The Residence Act and General Administrative Regulation for the Residence Act set the legal framework for possible alternatives to detention at national level and there are guidelines and resolutions on federal state level. Alternatives include: a) reporting requirements; b) geographic restrictions within a federal state or domicile restrictions; c) attendance at special counselling for returnees; d) bail. The decision to apply alternatives is usually made by the foreigners' office in the federal states or detention centre staff. There are no statutory time limits at national level. The authorities must check regularly whether the conditions for alternatives to detention pending deportation are upheld, or whether the obligation to leave the country may have to be ceased due to e.g. impossibility to leave the country.</p>	<p>46.1, 46.1.3, 46.1.4.1, 46.1.4.2, 46.1.4.3, 46.1.4.4 Allgemeine Verwaltungsvorschrift zum Aufenthaltsgesetz (AufenthG-VwV) vom 26.10.2009 (GMBI 2009, 878) [General Administrative Regulation for the Residence Act]: http://www.verwaltungsvorschriften-im-internet.de/bsvwwbund_26102009_MI3128406_0.htm (DE)</p> <p>Arts 46(1), 61(1) <i>Aufenthaltsgesetz (AufenthG) vom 25. Februar 2008 (BGBl 2008 I, 162), zuletzt geändert durch Artikel 1 des Gesetzes vom 12. Juli 2018 (BGBl 2018 I, 1147)</i> [Residence Act]: https://www.gesetze-im-internet.de/aufenthg_2004/BJNR195010004.html (DE)</p> <p>Fur rules on federal state, see e.g. Rhineland-Palatinate: Anwendungshinweise des Ministeriums für Integration, Familie, Kinder, Jugend und Frauen zur Abschiebungshaft nach § 62 des Aufenthaltsgesetzes (AufenthG) vom 15. August 2013 (Az.: 19 344/725): https://www.migrationsrecht.net/nachrichtengesetzgebung-auslaenderrecht/anwendungshinweise-des-ministeriums-fuer-integration-familie-kinder-jugend-und-frauen-zur-abschiebungshaft.html (DE)</p> <p>Janne Grote, 'The use of detention and alternatives to detention in Germany. Study by the German National Contact Point for the European Migration Network (EMN)' (Working Paper 59, Federal Office for Migration and Refugees 2014) 44.</p>
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				<p>examination of the necessity of deprivation of liberty in each individual case, the authorities of the host state have concluded that compliance with the removal order cannot be ensured as effectively by resorting to non-custodial measures such as supervision systems, the requirement to report regularly to the authorities, bail or other guarantee systems.</p> <ul style="list-style-type: none"> • EU Returns Directive: Art 15(1) Unless other sufficient but less coercive measures can be applied effectively in a specific case, Member States may only keep in detention a third-country national who is the subject of return procedures in order to prepare the return and/or carry out the removal process. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: (31) ...states have an obligation in the first instance to consider and apply appropriate and viable alternatives to immigration detention that are less coercive and intrusive than detention, ensure the greatest possible freedom of movement and that respect the human rights of the individual. • International Detention Coalition (2015), There Are Alternatives: A handbook for preventing unnecessary immigration detention (revised edition): immigration detention should be used only as a last resort in exceptional cases after all other options have been shown to be inadequate in the individual case. 		
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DET	2	b		Is there evidence that immigration detention is used in practice prior to all alternatives being considered? Please cite relevant reports.	As above	<p>Yes. Diakonie has stated that <i>‘the order for deportation is often too hasty, and the courts do not always take due diligence to examine the applications for detention. Between 30-50% of the people supported by the [Diakonie] legal aid fund were released from custody.’</i> In a statement in May 2017, Caritas and Diakonie declared the current detention system to be <i>‘unlawful’</i>. In a 2016 parliamentary inquiry, MPs refer to the current illegal and fast practice to detain.</p>	<p>Diakonie Hessen, ‘Abschiebehaft’: http://www.diakonie-hessen.de/ueberuns/arbeitsfelder/flucht-interkulturelle-arbeit-migration/abschiebungshaft.html (DE)</p> <p>Diakonie Hessen, ‘Abschiebungshaft in vielen Fällen rechtlich fragwürdig’ (May 2017): http://www.diakonie-hessen.de/aktuell/nachrichten/details/article/abschiebungshaft-in-vielen-faellen-rechtlich-fragwuerdig.html (DE)</p> <p>‘Die Praxis der Abschiebungshaft und Fragen zum Haftvollzug’, BT-Drucksache 18/7196, (6 January 2016)</p>
DET	3	a	Procedural safeguards	Is there a maximum time period for immigration detention set out in the law? What is it?	<ul style="list-style-type: none"> • UN Human Rights Council (HRC) (2010), Report of the UN Working Group on Arbitrary Detention to the Human Rights Council, 13th Session, A/HRC/13/30: a maximum period of detention must be established by law and upon expiry of this period the detainee must be automatically released. • UNHCR (2012), Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention : to guard against arbitrariness, maximum periods of detention should be set in national legislation. • EU Returns Directive: Art 15(5) Each Member State shall set a limited period of detention, which may not exceed six months (extendable by 12 months in specific circumstances of the detainee refusing to cooperate with removal proceedings or delays in obtaining documentation from third countries). • ENS (2015) Protecting Stateless Persons from Arbitrary Detention: a regional toolkit for practitioners: It is desirable that states 	<p>Yes, 18 months.</p>	<p>Art 62(4), Aufenthaltsgesetz (AufenthG) vom 25. Februar 2008 (BGBl 2008 I, 162), zuletzt geändert durch Artikel 1 des Gesetzes vom 12. Juli 2018 (BGBl 2018 I, 1147) [Residence Act]: https://www.gesetze-im-internet.de/aufenthg_2004/BJNR195010004.html (DE)</p>

				<p>clearly specify a reasonable maximum time limit. Under no circumstances should indefinite detention be tolerated.</p> <ul style="list-style-type: none"> • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 39 Detention should always be for the shortest time possible. There should be a reasonable maximum time-limit for detention. It is highly desirable that states do not detain stateless persons for more than six months. States which at present have a lower than six-month maximum time-limit for detention are urged not to increase it, and all states are urged to review and reduce their maximum time limit for detention. 		
DET	3	b	<p>Does law/policy provide that individuals must be informed in writing of the reasons for immigration detention?</p>	<ul style="list-style-type: none"> • UN General Assembly (UNGA) (1988), Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Resolution A/RES/43/173: Anyone who is arrested shall be informed at the time of his arrest of the reason for his arrest and shall be promptly informed of any charges against him. • EU Returns Directive: Detention shall be ordered in writing with reasons being given in fact and in law. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 37 Stateless detainees shall receive their order of detention in writing and in a language they understand and this must outline the reasons for their detention. 	<p>Yes. The court must send a copy (translated if required) of the application for detention pending deportation to the individual, containing their name and reasons for detention. On federal state level, e.g. in North Rhine-Westphalia, the individual must receive a copy of the detention order in good time, translated into their native language or a language they understand.</p>	<p>Arts 23 (2), 417(2) Gesetz über das Verfahren in Familiensachen und in den Angelegenheiten der freiwilligen Gerichtsbarkeit (FamFG) vom 17. Dezember 2008 (BGBl 2008 I, 2586-2587), zuletzt geändert durch Artikel 7 des Gesetzes vom 20. Juli 2017 (BGBl 2017 I, 2780) [Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction]: https://www.gesetze-im-inter-net.de/famfg/ (DE)</p> <p>Caselaw on the obligation to send a copy of the warrant: BGH, Beschluss v 27.09.2012 – V ZB 50/12; BGH, Beschluss v 30.10.2013 – V ZB 33/13; BGH, Beschluss v 05.12.2013 – V ZB 71/13; BGH, Beschluss v 19.12.2013 – V ZB 107/13 (DE)</p> <p>Caselaw on the obligation to send the copy of the order on time and the possible need for translation: BGH, Beschluss v 21. Juli 2011 - V ZB 141/11 (DE)</p>

						<p>Janne Grote, ‘The use of detention and alternatives to detention in Germany. Study by the German National Contact Point for the European Migration Network (EMN)’ (Working Paper 59, Federal Office for Migration and Refugees 2014) 29</p> <p>On guidance on federal state level, North Rhine–Westphalia: 8, Richtlinien für die Abschiebungshaft im Land Nordrhein-Westfalen (Abschiebungshaft-richtlinien - AHaftRL) Runderlass des Ministeriums für Inneres und Kommunales - 121-39.21.01-2-AHaftRL - vom 8. Juni 2016: https://recht.nrw.de/lmi/owa/br_vbl_detail_text?anw_nr=7&vd_id=15682&ver=8&val=15682&sg=2&menu=1&vd_back=N (DE)</p>
DET	3	c	<p>Are all detainees provided with information on their rights, contact details of organisations to assist them, including in challenging the legality of their detention and conditions of detention? Does this include guidance on how to access a dedicated SDP?</p>	<ul style="list-style-type: none"> • International Commission of Jurists (ICJ) (2014), Migration and International Human Rights Law: a Practitioner’s Guide (updated edition): The authorities are required to take steps to ensure that sufficient information is available to detained persons in a language they understand, regarding the nature of their detention, the reasons for it, the process for reviewing or challenging the decision to detain. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 37 Detainees must be informed of their rights related to the detention order, including the right to legal advice, the right to apply for bail, seek judicial review and/or appeal the legality of the detention. Where appropriate, they should receive free legal assistance; they must be informed of the maximum time limit which they can be held in detention; and they must be provided with a 	<p>No, there is no dedicated SDP procedure in place. Statelessness can be determined when the identity of a person needs to be clarified for deportation, but deportation can still be carried out even if identity has not been established if the country of destination will accept the person. During detention, both the authorities and the individual have to make efforts to obtain travel documents. Legal representatives, NGOs, associations, churches can help the person in this process.</p>	<p>Art 62(2, 4-5), <i>Aufenthaltsgesetz (AufenthG) vom 25. Februar 2008 (BGBl 2008 I, 162)</i>, zuletzt geändert durch Artikel 1 des Gesetzes vom 12. Juli 2018 (BGBl 2018 I, 1147) [Residence Act]: https://www.gesetze-im-internet.de/aufenthg_2004/BJNR195010004.html (DE)</p> <p>Reinhard Marx, <i>Aufenthalts-, Asyl- und Flüchtlingsrecht. Handbuch</i> (6th edn, Nomos 2017) 860-862</p> <p>On deportation despite missing clarity about the identity of the individual, see: OLG München, AuAS 2007, 42-43, in Reinhard Marx, <i>Aufenthalts-, Asyl- und Flüchtlingsrecht. Handbuch</i> (6th edn, Nomos 2017) 845 recital 26</p>

				handbook in a language which they understand and that contains information on all their rights and entitlements during detention.		
DET	3	d	<p>Are there regular periodic reviews of the necessity for the continuation of detention before a court or an independent body?</p> <p>If yes, are detainees released when it becomes evident that their removal will not be possible within a reasonable time?</p>	<ul style="list-style-type: none"> • ICCPR Art 9(3): Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. • EU Returns Directive: Any detention shall ... only be maintained as long as removal arrangements are in progress and executed with due diligence. • Auad v Bulgaria [2011] Application no 46390/10 (ECtHR): ...the only issue is whether or not the authorities were sufficiently diligent in their efforts to deport the applicant... the length of the detention should not exceed that reasonably required for the purpose pursued. • Kim v Russia [2014] Application no 44260/13 (ECtHR): The purpose of Art 5(4) ECHR is to guarantee to persons who are arrested and detained the right to judicial supervision of the lawfulness of the measure to which they are thereby subjected. • A. v. Australia, CCPR/C/59/D/560/1993, (HRC): Decisions to detain should be open to review periodically so that the grounds justifying the detention can be assessed. • Saïd Shamilovich Kadzoev v Direktsia Migratsia' pri Ministerstvo na vatrešniteraboti [2009] Case C-357/09 (ECJ): There must, at the time of the national Court's review of the lawfulness of detention, be a real prospect that the removal can be carried out successfully. 	<p>Yes. The authorities must examine ex officio at regular intervals whether the legal requirements for detention pending deportation are still in place. Detention must be suspended immediately if the reasons have lapsed and the person released.</p>	<p>Art 104(2), Grundgesetz für die Bundesrepublik Deutschland in der im Bundesgesetzblatt Teil III, Gliederungsnummer 100-1, veröffentlichten bereinigten Fassung, zuletzt geändert durch Artikel 1 des Gesetzes vom 13. Juli 2017 (BGBl I, 2347)[Basic Law]: https://www.gesetze-im-internet.de/gg/BJNR000010949.html (DE)</p> <p>62.3.0.1, Allgemeine Verwaltungsvorschrift zum Aufenthaltsgesetz (AufenthG-VwV) vom 26.10.2009 (GMBI 2009, 878) [General Administrative Regulation for the Residence Act]: http://www.verwaltungsvorschriften-im-internet.de/bsvwvbund_26102009_MI3128406_0.htm (DE)</p> <p>For guidance on federal state level, see for example the case of Rhineland – Palatinate: 5, Anwendungshinweise des Ministeriums für Integration, Familie, Kinder, Jugend und Frauen zur Abschiebungshaft nach § 62 des Aufenthaltsgesetzes (AufenthG) vom 15. August 2013 (Az.: 19 344/725) [Application notes of the Ministry of Integration, Family, Children, Youth and Women on detention pending deportation according to article 62 of the Residence Act of 15 August 2013] (DE)</p> <p>Arts 416, 424(1), 426 (2) Gesetz über das Verfahren in Familiensachen und in den Angelegenheiten der freiwilligen Gerichtsbarkeit (FamFG) vom 17. Dezember 2008 (BGBl 2008 I, 2586, 2587), zuletzt geändert durch Artikel 7 des Gesetzes vom 20.</p>

				<ul style="list-style-type: none"> • Council of Europe (2005), Twenty Guidelines of the Committee of Ministers of Europe on Forced Return: Detention pending removal shall be justified only for as long as removal arrangements are in progress. If such arrangements are not executed with due diligence the detention will cease to be permissible. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 41 To avoid arbitrariness, detention should be subject to automatic, regular and periodic review throughout the period of detention, before a judicial body independent of the detaining authorities. 		<p>Juli 2017 (BGBl 2017 I, 2780) [Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction] (DE)</p> <p>BGH, Beschluss v 2.03.2017 – V ZB 122/15</p>
DET	3	e	<p>What remedies are available to an individual to challenge detention? How often can these be invoked? Are there any obstacles in practice?</p>	<ul style="list-style-type: none"> • ICCPR Art 9(4): Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful. • ECHR: Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful. • Kim v Russia [2014] Application no 44260/13 (ECtHR): the purpose of Art 5(4) ECHR is to guarantee to persons who are arrested and detained the right to judicial supervision of the lawfulness of the measure to which they are thereby subjected. 	<p>The individual can make a complaint to the:</p> <p>a) Local Court (<i>Amtsgericht</i>) a) District Court (<i>Landgericht</i>) b) Federal Court (<i>Bundesgerichtshof</i>)</p> <p>A further appeal is possible on the application for annulment of detention. However, several obstacles have been reported e.g. in Hamburg, where people missed court hearings, there was a lack of interpreters, the detention order was not translated, paperwork was missing, or there was a lack of legal aid (see also DET 3f).</p>	<p>Reinhard Marx, Aufenthalts-, Asyl- und Flüchtlingsrecht. Handbuch (6th edn, Nomos 2017) 833, 874-876</p> <p>Kay Hailbronner, Asyl- und Ausländerrecht (4th edn, W Kohlhammer 2017) recital 1207-1208</p> <p>Art 106(2), Aufenthaltsgesetz (AufenthG) vom 25. Februar 2008 (BGBl 2008 I, 162), zuletzt geändert durch Artikel 1 des Gesetzes vom 12. Juli 2018 (BGBl 2018 I, 1147) [Residence Act]: https://www.gesetze-im-internet.de/aufenthg_2004/BJNR195010004.html (DE)</p> <p>Arts 16, 34, 58, 59, 63, 64, 68, 70, 71, 72, 74, 426, 415 -432 (Book 7), Gesetz über das Verfahren in Familiensachen und in den Angelegenheiten der freiwilligen Gerichtsbarkeit (FamFG) vom 17. Dezember 2008 (BGBl 2008 I, 2586, 2587), zuletzt geändert durch Artikel 7 des Gesetzes vom 20. Juli 2017 (BGBl 2017 I, 2780) [Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction] (DE)</p>

						<p>Art 23, Gerichtsverfassungsgesetz in der Fassung der Bekanntmachung vom 9. Mai 1975 (BGBl 1975 I, 1077), zuletzt geändert durch Artikel 1 des Gesetzes vom 8. Oktober 2017 (BGBl 2017 I, 3546) [Courts Constitution Act]</p> <p>Janne Grote, 'The use of detention and alternatives to detention in Germany. Study by the German National Contact Point for the European Migration Network (EMN)' (Working Paper 59, Federal Office for Migration and Refugees 2014) 31</p> <p>On the transformation into a complaint: BGH, InfAuslR 2015, 439</p> <p>RA Claudius Brenneisen, RA Insa Graefe, RA Heiko Habbe, RA Markus Prottung, RA In Ilka Quirling, 'Abschiebungshaft in der anwaltlichen Praxis': https://www.frsh.de/fileadmin/pdf/Abschiebungshaft/Abschiebungshaft_in_der_anwaltlichen_Praxis.pdf (DE)</p>
DET	3	f	<p>Are there rules/guidance in place that govern the process of re-documentation and/or ascertain entitlement to nationality, for the purpose of removal? Do these rules articulate the respective roles that state and individual are expected to play?</p>	<ul style="list-style-type: none"> • Auad v Bulgaria [2011] Application no 46390/10 (ECtHR): The only issue is whether or not the authorities were sufficiently diligent in their efforts to deport the applicant. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: The inability of a stateless person to cooperate with removal proceedings should not be treated as non-cooperation (see also above). • ENS (2015) Protecting Stateless Persons from Arbitrary Detention: a regional toolkit for practitioners: The detaining state should have rules in place that govern the process of 	<p>Yes. It sets out the respective roles and tasks of the individual and authorities in the investigation of facts relevant to the determination of identity and nationality. The individual must fulfil the duty of cooperation and initiative, while the authority has the obligation to notify and to impose. The scope of these obligations has mainly been shaped by jurisprudence. The burden of proof lies on the individual who needs to present any possible certificate, document, medical</p>	<p>Arts 25(5), 82, <i>Aufenthaltsgesetz (AufenthG) vom 25. Februar 2008 (BGBl 2008 I, 162)</i>, zuletzt geändert durch Artikel 1 des Gesetzes vom 12. Juli 2018 (BGBl 2018 I, 1147) [Residence Act]: https://www.gesetze-im-internet.de/aufenthg_2004/BJNR195010004.html (DE)</p> <p>25.5.4, 82 – 82.1.2, 82.3 – 82.4.2.3 Allgemeine Verwaltungsvorschrift zum Aufenthaltsgesetz (AufenthG-VwV) vom 26.10.2009 (GMBI 2009, 878) [General Administrative Regulation for the Residence Act]: http://www.verwaltungsvorschriften-im-</p>

			<p>Are there time limits clearly set out? Are the outcomes of such processes used/considered relevant for subsequent determination of whether an individual is stateless?</p>	<p>re-documentation and/ or ascertaining entitlement to nationality...the respective roles that the state and the individual should be expected to play and related time limits should be clearly articulated. The longer it takes to do so, detention is more likely to become unreasonable and disproportionate.</p> <ul style="list-style-type: none"> • ECRE, Point of No Return: The Futile Detention of Unreturnable Migrants, 2014: Once un-returnability is established, migrants should not be detained. Detention should not be used for nationals of countries to which forced returns are not generally possible. 	<p>certificate, voluntary DNA test, etc. to clarify their situation. The authority is not obliged to gather information on case relevant facts concerning the individual abroad.</p>	<p>internet.de/bsvwvbund_26102009_MI3128406_0.htm (DE)</p> <p>Boris Franßen-de la Cerda, 'Die Verpflichtung des Ausländers zur Mitwirkung (§ 82 AufenthG)' (2010) 3 ZAR: http://www.zar.nomos.de/?id=1443 (DE)</p> <p>Rolf Stahmann, 'Staatsangehörigkeit. Staatenlosigkeit': http://stahmann-anwalt.de/migrationsrecht/staatsangehoerigkeit/ (DE)</p>
DET	3	g	<p>Is free legal aid available to challenge detention? Are there any barriers to accessing this in practice?</p>	<ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: Judicial oversight of detention is always necessary and detained individuals need to have access to legal representation, including free counselling for those without means. • EU Returns Directive: Art 13(3) The third-country national concerned shall have the possibility to obtain legal advice, representation and, where necessary, linguistic assistance. 	<p>There is no specific regulation to receive free legal aid during the process – detention pending deportation is not a criminal custody so not eligible for free legal aid. Access to free legal aid and advice varies among the states (<i>Länder</i>). In some states, free legal advice is only provided by civil society, while in others, free legal advice and aid is provided by the state. See also IDP 14a.</p>	<p>Groß, Beratungshilfe, Prozesskostenhilfe, Verfahrenskostenhilfe (13th edn, CF Müller 2015) 701 recital 16</p> <p>BGH B v 12.09.2013 – V ZB 121, 12 juris</p> <p>Arts 76- 77, Gesetz über das Verfahren in Familiensachen und in den Angelegenheiten der freiwilligen Gerichtsbarkeit (FamFG) vom 17. Dezember 2008 (BGBl 2008 I, 2586, 2587), zuletzt geändert durch Artikel 7 des Gesetzes vom 20. Juli 2017 (BGBl 2017 I, 2780) [Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction]: https://www.gesetze-im-internet.de/famfg/ (DE)</p> <p>Art 114, Zivilprozessordnung (ZPO) vom 5. Dezember 2005 (BGBl 2005 I, 3202; 2006 I 431; 2007 I 1781), zuletzt geändert durch Artikel 2 des Gesetzes vom 12. Juli 2018 (BGBl 2018 I, 1151) [Civil Procedure Code]: https://www.gesetze-im-internet.de/zpo/ZPO.pdf (DE)</p>

						<p>Art 166, Verwaltungsgerichtsordnung (VwGO) vom 19. März 1991 (BGBl 1991 I, 686), zuletzt geändert durch Gesetz vom 12. Juli 2018 (BGBl 2018 I, 1151) mWv 1 November 2018 [Administrative Procedure Code]: https://dejure.org/gesetze/VwGO (DE)</p> <p>Art 1, Gesetz über Rechtsberatung und Vertretung für Bürger mit geringem Einkommen (Beratungshilfegesetz - BerHG) vom 18.06.1980 (BGBl I 1980, 689), zuletzt geändert durch Artikel 140 der Verordnung vom 31.08.2015 (BGBl I 2015, 1474) [Act on legal advice and representation for citizens with low incomes - Legal Advice Act] : https://www.gesetze-im-internet.de/berathig/BJNR006890980.html (DE)</p> <p>On the situation in the federal states: Umsetzung der Abschiebungsrichtlinie der Europäischen Union und die Praxis der Abschiebungshaft [Implementation of the return directive of the European Union and the practice of detention pending deportation] BT-Drucksache 17/10597 (5 September 2012): https://ia801607.us.archive.org/28/items/ger-bt-drucksache-17-10597/1710597.pdf (DE)</p>	
DET	4	a	Protections on release	Are those released from detention issued with any identification, including confirmation of their statelessness status, and thus protected from arbitrary re-detention?	<ul style="list-style-type: none"> • UN Convention Relating to the Status of Stateless Persons, 1954: Art 27 • UNHCR (2014), Handbook on Protection of Stateless Persons: Statelessness, by its very nature, severely restricts access to basic identity and travel documents that nationals normally possess. Moreover, stateless persons are often without a legal residence in any country. Thus, being undocumented or lacking the necessary immigration permits cannot 	<p>Most of the time, toleration (<i>Duldung</i>) is granted, which may indicate that the individual is stateless or has unclear nationality. However, the status of toleration maintains the obligation to leave the country and does not protect the individual from re-detention. A detention order can be issued during toleration, if deportation can be carried out within 3</p>	<p>Art 60 Aufenthaltsgesetz (AufenthG) vom 25. Februar 2008 (BGBl 2008 I, 162), zuletzt geändert durch Artikel 1 des Gesetzes vom 12. Juli 2018 (BGBl 2018 I, 1147) [Residence Act]: https://www.gesetze-im-internet.de/aufenthg_2004/BJNR195010004.html (DE)</p> <p>25.5.2, 60a.2.1.2, Allgemeine Verwaltungsvorschrift zum Aufenthaltsgesetz (AufenthG-VwV) vom 26.10.2009 (GMBI 2009, 878) [General Administrative Regulation for the</p>

				<p>be used as a general justification for detention of such persons.</p> <ul style="list-style-type: none"> • ENS (2015) Protecting Stateless Persons from Arbitrary Detention: a regional toolkit for practitioners: Article 27 of the 1954 Statelessness Convention... applies to all stateless persons, which includes those not staying legally in the state’s territory... state parties to the 1954 Convention have an obligation to provide stay rights to stateless persons who have been released from detention. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guidelines 55 & 56 Special care should be taken to address the vulnerabilities of stateless persons who are released from detention and to ensure that they enjoy all human rights which they are entitled to under international law... Released stateless detainees should be provided with appropriate documentation and stay rights suitable to their situation. 	<p>months. If deportation is suspended for 18 months due to impossibility to leave the country, for example, the individual may be granted a residence permit. For stateless people on toleration it can be difficult to get travel documents from the authorities.</p>	<p>Residence Act]: http://www.verwaltungsvorschriften-im-internet.de/bsvwvbund_26102009_MI3128406_0.htm (DE)</p> <p>BVerwG, Urteil v 21.3.2000 - 1 C 23.99; OLG Frankfurt am Main, Beschluss v 30.06.2000 - 1 Ws 106/00; BVerfG, Beschluss v 06.03.2003 - 2 BvR 397/02 Rn 39 mwN; BVerwG, Beschluss v 29.06.1998 - 9 B 604/98; VGH Baden-Württemberg, 30.07.1997, InfAuslR 1998, 18; VGH Baden-Württemberg, v 3.11.1995, DVBl 1996, 2996; VG Hamburg, 31.08.1995, InfAuslR 1996, 65 (DE)</p> <p>Deutsches Rotes Kreuz, ‘Familienzusammenführung. Rechtsgrundlagen für die Einreise und den Aufenthalt in Deutschland’ (2dn, 2008) 9.</p>
DET	4	b	<p>If the purpose of detention cannot be fulfilled (e.g. removal) and the person is released, what legal status is provided to them by law? Can they access social services, accommodation, welfare, education and healthcare? Do they have the right to work?</p>	<ul style="list-style-type: none"> • Saïd Shamilovich Kadzoev v Direktsia Migratsia’ pri Ministerstvo na vatreshnite raboti [2009] Case C-357/09 (ECJ): Article 15(4) and (6) of the Directive should be interpreted as requiring that after the maximum period of detention has expired, the person must be released immediately... the individual’s lack of valid documentation, his/her inability to support him/herself or his/her “aggressive conduct” should not be a deterrent to his/her release. • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 55 as above. 	<p>The individual is entitled to receive a toleration certificate. The certificate is enough in case they are unable to present a passport (see also DET4a). People on toleration are initially entitled to less support than asylum seekers or refugees, but after 15 months of uninterrupted stay they can access similar rights. They may receive support under the Asylum Seekers’ Benefit Act if they don’t have their own means. This covers basic needs (clothes, food, accommodation, housekeeping products) and healthcare services in case of</p>	<p>Art 60, Aufenthaltsgesetz (AufenthG) vom 25. Februar 2008 (BGBl 2008 I, 162), zuletzt geändert durch Artikel 1 des Gesetzes vom 12. Juli 2018 (BGBl 2018 I, 1147) [Residence Act]: https://www.gesetze-im-inter-net.de/aufenthg_2004/BJNR195010004.html (DE)</p> <p>BVerwGE 105, 232 (238), EZAR 045 Nr 7, NVwZ 1998, 297; HessVGh, 30.3.2006 – 3 T 556/06, EZAR NF 98 Nr 13; VG Saarbrücken, 29.10.2006 – 10 F 42/06;</p> <p>Marco Bruns, ‘AufenthG §60a Vorrübergehende Aussetzung der Abschiebung (Duldung)’ in Hofmann (ed), Ausländerrecht (2nd edn, Nomos 2016) 940 recital 35</p>

					<p>illness, pregnancy and birth. It further provides a specific amount of money for individual needs. A person who has been on toleration for 3 months is not allowed to work; between 4-15 months they have limited access to the labour market and need a work permit subject to a 'priority check'. After 48 months on toleration, unrestricted access to the labour market is allowed but not self-employment. However, employment for the highly skilled, those in a family business, vocational training, and internships are allowed without obtaining permission from the Federal Employment Agency. Since the Integration Act entered into force on 6 August 2016, the priority check has been suspended for three years in several States.</p>	<p>Arts 1- 4, Asylbewerberleistungsgesetz in der Fassung der Bekanntmachung vom 5.08.1997 (BGBl I 1997, 2022), zuletzt geändert durch Artikel 4 des Gesetzes vom 17.07.2017 (BGBl I 2017, 2541) [Asylum Seekers' Benefits Act]: https://www.gesetze-im-internet.de/asylblg/BJNR107410993.html (DE)</p> <p>Zwölftes Buch Sozialgesetzbuch (SGB XII) - Sozialhilfe - Artikel 1 des Gesetzes vom 27.12.2003 (BGBl I 2003, 3022), in Kraft getreten am 31.12.2003, 01.01.2004, 01.07.2004, 01.01.2005 bzw. 01.01.2007, zuletzt geändert durch Artikel 2 Gesetzes vom 10.07.2018 (BGBl I 2018, 1117) mWv 01.01.2017 [Social Code – Book XII – Social Assistance]: https://www.gesetze-im-internet.de/sgb_12/BJNR302300003.html (DE)</p> <p>Art 32, Beschäftigungsverordnung (BeschV) vom 6.06.2013 (BGBl I 2013, 1499), zuletzt geändert durch Artikel 2 der Verordnung vom 1.08.2017 (BGBl I 2017, 3066) [Regulation on Employment of Aliens – Employment Regulation]: https://www.gesetze-im-internet.de/beschv_2013/BJNR149910013.html (DE)</p> <p>Art 8, Bundesausbildungsförderungsgesetz (BAföG) in der Fassung der Bekanntmachung vom 7.12.2010 (BGBl I 2010, 1952; I 2012, 197), zuletzt geändert durch Artikel 2 des Gesetzes vom 12.07.2018 (BGBl I 2018,1147) [Federal Training Assistance Act]: https://www.gesetze-im-internet.de/baf_g/BJNR014090971.html (DE)</p>
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DET	4	c		<p>If re-detention does occur, is the cumulative time spent in detention counted towards any maximum time limits?</p>	<ul style="list-style-type: none"> • Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention: Guideline 40 When calculating the total time spent by an individual in detention, it is highly desirable that time spent in detention on previous occasions is taken into consideration. 	<p>No. Earlier periods of detention to secure deportation are only taken into account if they were ordered on the same grounds.</p>	<p>KG, FGPrax 2000, 84; BayObLG v 25. März 2003 bei Melchior, Abschiebungshaft, Anhang; OLG Celle, 22. Zivilsenat, Beschluss v 15.12.2005 - 22 W 97/05</p> <p>11.4.1b; Richtlinien für die Abschiebungshaft im Land Nordrhein-Westfalen (Abschiebungshaft-richtlinien - AHaftRL) Runderlass des Ministeriums für Inneres und Kommunales - 121-39.21.01-2-AHaftRL - vom 8. Juni 2016; [Guidelines for detention pending deportation in the Federal State North Rhine – Westphalia]: https://recht.nrw.de/lmi/owa/br_vbl_de-tail_text?anw_nr=7&vd_id=15682&ver=8&val=15682&sg=2&menu=1&vd_back=N (DE)</p>
DET	5	a	Return & readmission agreements	<p>Is statelessness considered a juridically relevant fact in any readmission and/or bilateral return agreements?</p>	<p>UNHCR (2014), Handbook on Protection of Stateless Persons: Efforts to secure</p> <ul style="list-style-type: none"> • admission or readmission may be justified but these need to take place subsequent to a determination of statelessness. 	<p>Yes, statelessness is a juridically relevant fact, but NOT in every bilateral readmission agreement. Out of 32 bilateral return agreements, 4 do <u>not</u> address stateless people. The multilateral return agreement between Belgium, Germany, France, Italy, Luxemburg, Netherlands and Poland also considers statelessness.</p>	<p>'Abkommen zur Erleichterung der Rückkehr ausreisepflichtiger Ausländer' (as of June 2018): https://www.bmi.bund.de/SharedDocs/downloads/DE/veroeffentlichungen/themen/migration/rueckkehrfluechtlinge.pdf?__blob=publicationFile&v=3</p> <p>See also: Antwort der Bundesregierung auf die Kleine Anfrage der Abgeordneten Ulla Jelpke, Frank Tempel, Wolfgang Gehrcke, weiterer Abgeordneter und der Fraktion DIE LINKE – Drucksache 18/7056 – 'Abkommen zur</p>

						<p>Erleichterung der Abschiebung Ausreisepflichtiger', BT-Drucksache 18/7198 (6 January 2016) 5-6: http://dip21.bundestag.de/dip21/btd/18/071/1807198.pdf (DE)</p> <p><u>29 Bilateral return agreements considering statelessness</u> Albania (BGBI 2003 II, No 7, 194) Armenia (BGBI 2006 II, No 33, 1405; BGBI 2008 II, No 12, 469) Benelux (BAnz 1966, No 131) Bulgaria (BGBI 2006 II, No 8, 259) Denmark (Banz 1954, No 120) Estonia (BGBI 2000 II, No 12, 570) France (BGBI 2006 II, No 4, 99) Georgia (BGBI 2007 II, No 40, 1962) Kazakhstan (BGBI 2010 II, No 3, 63) Croatia (BGBI 2012 II, No 35, 1340) Kosovo (BGBI 2010 II, No 9, 259) Latvia (BGBI 2000 II, No 12, 579) Lithuania (BGBI 2000 II, No 12, 588) Macedonia (BGBI 2002 II, No 38, 2526) Norway (Banz 1955, No 84) Austria (BGBI 1998 II, No 3, 80) Poland (BGBI 1994 II, No 60, 3775) Romania (Return Agreement of Stateless [People]) (BGBI 1999 II, No 7, 172) Schweden (Banz 1954, No 120) Switzerland (BGBI 1996 II, No 26, 945) Serbia (BGBI 2002 II, No 41, 2762) Slovakia (BGBI 2003 II, No 12, 446) South Korea (BGBI 2005 II, No 6, 193) Syria (BGBI 2008 II, No 21, 811) Czech Republic (BGBI 1995 II, No 5, 133 and 141) Hungary (BGBI 1999 II, No 5, 90)</p>
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						<p><u>4 Bilateral return agreements NOT considering statelessness</u> Algeria (BGBl 2004, No 1, 16) Bosnia + Herzegovina (BGBl 1997 II, No 12, 742) Morocco (BGBl 1998 II, No 23, 1148) Vietnam (BGBl 1995 II, No 27, 743)</p> <p><u>Multilateral return agreement</u> between Belgium, Germany, France, Italy, Luxemburg, Netherlands and Poland (BGBl 1993 II, No 23, 1099)</p>
DET	5	b		<p>Are you aware of cases of stateless people being returned under such agreements?</p>		<p>Yes. There is some evidence that stateless people were deported to Romania, and stateless Roma to Kosovo, among others. However, official statistics from the government do not indicate the destination nor the ethnicity of deported stateless people. Therefore, information is based on limited evidence found in caselaw, parliamentary responses, NGO reports, and the media.</p> <p>Deportation of stateless people to Romania: ECHR (III Section), 7 Oct. 2004, 33743/03, Dragan & Ors. v. Germany: https://www.echr.coe.int/Documents/CLIN_2004_10_68_ENG_815395.pdf (ENG); NVwZ 2005, 1043 (DE); ECHR (III Section), 16 Sept. 2004, 11103/03, Ghiban v. Germany: https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22001-66998%22%5D%7D (FR); NVwZ 2005, 1046 (DE)</p> <p>Antwort der Bundesregierung auf die Kleine Anfrage der Abgeordneten Ulla Jelpke, Jan Korte, Petra Pau, weiterer Abgeordneter und der Fraktion DIE LINKE – Drucksache 17/5617 – Stand der Abschiebungen von Roma in den Kosovo zum 31. März 2011; BT-Drucksache 17/5724 (5 Mai 2011) : http://dipbt.bundestag.de/doc/btd/17/057/1705724.pdf (DE)</p> <p>Antwort der Bundesregierung auf die Kleine Anfrage der Abgeordneten Ulla Jelpke, Dr. André Hahn, Gökay Akbulut, weiterer Abgeordneter und der Fraktion DIE LINKE. – Drucksache 19/3477 – Abschiebungen und Ausreisen im ersten Halbjahr 2018; BT-Drucksache 19/3702 (6.August 2018):</p>

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						<p>http://dipbt.bundestag.de/dip21/btd/19/037/1903702.pdf (DE)</p> <p>Dr. Bernd Franke, Georg Dietlein, In den Kosovo abgeschoben – keine Arbeit, keine Perspektive, Caritas, 15 Nov. 2011 (DE)</p> <p>Abgeschobener staatenloser Rumäne begeht Selbstmord, Der Tagesspiegel, 17 Mar. 2017 (DE)</p> <p>Martin Fahlbusch, Dem staatenlosen Emrah Asimov droht erneut die Abschiebung, Westfälische Nachrichten, 19 Apr. 2016 (DE)</p>
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Prevention and Reduction

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
PRS	1	a	Stateless born on territory	Is there a provision in law for stateless children born on the territory to be granted nationality?	<ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: A Contracting State shall grant its nationality to a person born in its territory who would otherwise be stateless... • European Convention on Nationality, 1997: Each State Party shall provide in its internal law for its nationality to be acquired by children born on its territory who do not acquire at birth another nationality... • Convention on the Rights of the Child 1989: The child shall have... the right to acquire a nationality... States Parties shall ensure the implementation of these rights...in particular where the child would otherwise be stateless... States Parties undertake to respect the right of the child to preserve his or her identity, including nationality... • Genovese v. Malta (ECtHR) Application No. 53124/09, 11 October 2011 	<p>Yes. Stateless children born on German territory are entitled to naturalisation if they:</p> <ol style="list-style-type: none"> are stateless at birth born on German territory (including German ships and aircrafts) have lived lawfully and continuously in Germany for at least five years are under 21 years of age at the time of application do not have a custodial or juvenile sentence longer than five years. 	<p>Art 2, Ausführungsgesetz zu dem Übereinkommen vom 30. August 1961 zur Verminderung der Staatenlosigkeit und zu dem Übereinkommen vom 13. September 1973 zur Verringerung der Fälle von Staatenlosigkeit Gesetz zur Verminderung der Staatenlosigkeit [Implementing Law to the Convention of 30 August 1961 on the Reduction of Statelessness and to the Convention of 13 September 1973 on the Reduction of Cases of Statelessness (Law on the Reduction of Statelessness)]: BGBl 1977 I, 1101-1102 (DE)</p> <p>3; 4.4.1, Allgemeine Verwaltungsvorschrift zum Staatsangehörigkeitsrecht (StAR-VwV) vom 13. Dezember 2000 [General Administrative Regulation for the Nationality Act]: http://www.verwaltungsvorschriften-im-internet.de/bsvwvbund_13122000_V612400513.htm (DE)</p> <p>For federal state administrative rules see e.g.: Vorläufige Anwendungshinweise des Bundesministeriums des Inneren (mit Änderungen und ergänzenden Hinweisen des Senators für Inneres und Sport) zum Staatsangehörigkeitsgesetz (StAG) in der Fassung des Zweiten Gesetzes zur Änderung des Staatsangehörigkeitsgesetzes vom 13. November 2014 (BGBl I, 1714): https://fragden-staat.de/files/foi/64224/20150601_VAH-StAGergnzteFassung.pdf (DE)</p>

PRS	1	b	Is the provision for stateless children to access nationality automatic or non-automatic (i.e. by application)?	<ul style="list-style-type: none"> • UNHCR Guidelines on Statelessness #4 2012: Article 1 of the 1961 Convention provides Contracting States with two alternative options for granting nationality to children who would otherwise be stateless born in their territory. States can either provide for automatic acquisition of nationality upon birth pursuant to Article 1(1)(a), or for acquisition of nationality upon application pursuant to Article 1(1)(b) ... • ENS (2015), No Child Should Be Stateless: Article 1 of the 1961 Convention and article 6(2) of the ECN are the most important of these norms for the European context. Both oblige the conferral of nationality to children born on the territory if they would otherwise be stateless but allow some leeway in how states transpose this safeguard into their domestic systems. The first, and optimal, method – as it is all-encompassing and does not tolerate even a temporary period of statelessness – is to grant nationality to otherwise stateless children automatically, at birth. 	Both automatic and non-automatic. Under the German Nationality Act 2000, a child born after 1 January 2000 on German territory who has not yet reached the age of 10, or if an application for naturalisation was not presented before 31 December 2000, gains German nationality automatically by ius soli. If the child was born before 1 January 2000 or if an application for naturalisation was not submitted by 31 December 2000, acquisition is by application (non-automatic) and the conditions of Article 2 of the implementing act must be fulfilled (see 1a).	<p>Die Bundesregierung, 'Das Geburtsortsprinzip' [The birthplace principle]: https://www.bundesregierung.de/Content/DE/StatischeSeiten/Breg/IB2/Einbuengerung/gp-geburtsortsprinzip.html (DE)</p> <p>Art 4, Staatsangehörigkeitsgesetz in der im Bundesgesetzblatt Teil III, Gliederungsnummer 102-1, veröffentlichten bereinigten Fassung, zuletzt geändert durch Artikel 3 des Gesetzes vom 11. Oktober 2016 (BGBl 2016 I, 2218) [Nationality Act]: https://www.gesetze-im-inter-net.de/rustag/BJNR005830913.html (DE)</p> <p>Thomas Oberhäuser, 'StAG §4. Erwerb durch Geburt', in Rainer M Hofman, <i>Ausländerrecht</i> (2nd edn, CH Beck 2016), recital 12.</p> <p>Roman Fränkel, 'StAG §40b. Einbürgerung ausländischer Kinder', in Rainer M Hofman, <i>Ausländerrecht</i> (2nd edn, CH Beck 2016) recitals 1-4</p>
PRS	1	c	Is it a requirement that the parents are also stateless for the child to acquire the nationality of the host state?	<ul style="list-style-type: none"> • UNHCR Guidelines on Statelessness #4 2012: The test is whether a child is stateless because he or she acquires neither the nationality of his or her parents nor that of the State of his or her birth; it is not an inquiry into whether a child's parents are stateless. Restricting the application of Article 1 of the 1961 Convention to children of stateless parents is insufficient in light of the different ways in which a child may be rendered stateless and contrary to the terms of those provisions. • ENS (2015), No Child Should Be Stateless: Only allowing access to nationality for stateless children whose parents are stateless fails to account for the circumstance where the child's parent(s) do hold a 	No. The individual must provide evidence of the factual circumstances. The child or their legal representative must demonstrate that they are not recognised as a citizen by another State.	Thomas Oberhäuser, 'StAG Anhang: Einbürgerung Staatenloser', in Rainer M Hofman, <i>Ausländerrecht</i> (2nd edn, CH Beck 2016), recital 7

					nationality themselves, but are unable to pass this on...		
PRS	1	d		<p>Are children born stateless required to prove they cannot access another nationality to acquire nationality of the country of birth?</p> <p>If yes, please describe the requirement e.g. what is the standard and burden of proof, and how lack of any other nationality (i.e. statelessness) is determined in practice?</p>	<ul style="list-style-type: none"> • UNHCR Guidelines on Statelessness #4 2012: A Contracting State to the 1961 Convention cannot avoid the obligations to grant its nationality to a person who would otherwise be stateless...based on its own interpretation of another State’s nationality laws where this conflicts with the interpretation applied by the State concerned... the burden of proof must be shared between the claimant and the authorities... decision makers need to take into account Articles 3 and 7 of the CRC and adopt an appropriate standard of proof, for example... ‘reasonable degree’... Requiring a higher standard of proof would undermine the object and purpose of the 1961 Convention. Special procedural considerations to address the acute challenges faced by children, especially unaccompanied children, in communicating basic facts with respect to their nationality are to be respected. 	<p>If the parents are stateless, or if they were treated as stateless at the time of the birth, the authority must check if the parents may be able to transmit a nationality. If no indication is obtained, including the possibility that a State may recognise the child as a national in the future, statelessness at birth is determined. The burden of proof lies with the authority to demonstrate with concrete evidence that the child may be able to acquire another nationality.</p>	<p>Thomas Oberhäuser, ‘StAG Anhang: Einbürgerung Staatenloser’, in Rainer M Hofman, Ausländerrecht (2nd edn, CH Beck 2016) recital 7</p>
PRS	1	e		<p>Is a stateless child born on the territory required to fulfil a period of residence to be granted nationality?</p> <p>If yes, what is it? Must this be legal and/or permanent residence?</p>	<ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: A Contracting State may make the grant of its nationality...subject to one or more of the following conditions: <ul style="list-style-type: none"> ...b) that the person concerned has habitually resided in the territory of the Contracting State for such period as may be fixed by that State, not exceeding five years immediately preceding the lodging of the application nor ten years in all. • UNHCR Guidelines on Statelessness #4 2012: States may stipulate that an individual who would otherwise be stateless born in its territory fulfils a period of “habitual residence”.... This period is not to exceed five years immediately preceding an application nor ten years in all. In light of the standards established under the CRC, these periods are lengthy. States which ...require a certain period of habitual residence are encouraged to provide for a 	<p>Yes, in the case of non-automatic acquisition, five years of lawful and continuous residence.</p>	<p>Art 2, Ausführungsgesetz zu dem Übereinkommen vom 30. August 1961 zur Verminderung der Staatenlosigkeit und zu dem Übereinkommen vom 13. September 1973 zur Verringerung der Fälle von Staatenlosigkeit Gesetz zur Verminderung der Staatenlosigkeit [Implementing Law to the Convention of 30 August 1961 on the Reduction of Statelessness and to the Convention of 13 September 1973 on the Reduction of Cases of Statelessness (Law on the Reduction of Statelessness)] BGBI 1977 I, 1101-1102 (DE)</p>

				<p>period as short as possible...The term “habitual residence” is ...to be understood as stable, factual residence. It does not imply a legal or formal residence requirement. The 1961 Convention does not permit Contracting States to make an application for the acquisition of nationality by individuals who would otherwise be stateless conditional upon lawful residence.</p> <ul style="list-style-type: none"> • Convention on the Rights of the Child 1989: Arts 3 & 7 • Committee on the Rights of the Child, Concluding observations on the 4th periodic report of the Netherlands CRC/C/NDL/CO/4, 2015: The Committee recommends that the State party ensure that all stateless children born in its territory, irrespective of residency status, have access to citizenship without any conditions. • European Convention on Nationality, 1997: Article 6 (2)(b) ... Such an application may be made subject to the lawful and habitual residence on its territory for a period not exceeding five years immediately preceding the lodging of the application. • ENS (2016), Ending Childhood Statelessness: The ECN cannot be interpreted as undermining states’ obligations under the CRC...and the requirement of lawful residence should be removed. 		
PRS	1	f	<p>Are the parents of a stateless child required to fulfil a period of residence for the child to be granted nationality? If yes, what is it? Must this be legal and/or permanent residence?</p>	<ul style="list-style-type: none"> • Committee on the Rights of the Child, Concluding Observations Czech Republic CRC/C/CZE/CO/3-4, 2011: The outcome of an application for citizenship, legal residence or similar status by the parents of a child born on the territory should not prejudice the right of the child to acquire the nationality of the State party where the child would otherwise be stateless. • ENS (2015), No Child Should Be Stateless: Demanding that the child or his/her parents reside lawfully on the territory is... prohibited by the 1961 	<p>Yes. A child of foreign parents can acquire citizenship by birth if one parent has been a legal resident for eight years and has been granted a permanent right of residence.</p>	<p>Art 2, Aufenthaltsgesetz (AufenthG) vom 25. Februar 2008 (BGBl 2008 I, 162), zuletzt geändert durch Artikel 1 des Gesetzes vom 12. Juli 2018 (BGBl 2018 I, 1147) [Residence Act]: https://www.gesetze-im-internet.de/aufenthg_2004/BJNR195010004.html (DE)</p> <p>Art 4, Staatsangehörigkeitsgesetz in der im Bundesgesetzblatt Teil III, Gliederungsnummer 102-1, veröffentlichten bereinigten Fassung, zuletzt geändert durch</p>

				Convention which permits only the condition of a certain period of habitual residence.		<p>Artikel 3 des Gesetzes vom 11. Oktober 2016 (BGBl 2016 I, 2218): https://www.gesetze-im-internet.de/rustag/BJNR005830913.html (DE)</p> <p>BGBl 1977 I, 1101-1102 (DE)</p> <p>Thomas Oberhäuser, 'StAG §4. Erwerb durch Geburt', in Rainer M Hofman, Ausländerrecht (2nd edn, CH Beck 2016) recital 12</p>
PRS	1	g	What are the age limits, if any, for making an application for nationality for a stateless person born on the territory?	<ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: A Contracting State may make the grant of its nationality...subject to one or more of the following conditions: (a) that the application is lodged during a period... beginning not later than at the age of eighteen years and ending not earlier than at the age of twenty-one years... • UNHCR Guidelines on Statelessness #4 2012: ...Contracting States ...need to accept applications lodged at a time beginning not later than the age of 18 and ending not earlier than the age of 21 in accordance with Article 1(2)(a) of the 1961 Convention. • ENS (2015), No Child Should Be Stateless: ...any application procedure which only becomes available in late childhood or even upon reaching majority is particularly problematic [...] closing the window of opportunity to apply for a nationality through such safeguards too early has the effect of leaving it in the hands of parents to take the necessary steps to secure a nationality for their child and may mean children are left stateless due to the lack of action on the part of their parents. 	In the case of non-automatic acquisition, the application must be submitted before the age of 21.	Art 2, Ausführungsgesetz zu dem Übereinkommen vom 30. August 1961 zur Verminderung der Staatenlosigkeit und zu dem Übereinkommen vom 13. September 1973 zur Verringerung der Fälle von Staatenlosigkeit Gesetz zur Verminderung der Staatenlosigkeit: BGBl 1977 I, 1101-1102 (DE)
PRS	1	h	Are there specific provisions for the	<ul style="list-style-type: none"> • UNHCR Guidelines on Statelessness #4 2012: Some children are born to refugee parents who are 	No.	

				nationality or statelessness of children born to beneficiaries of international protection?	themselves stateless or cannot acquire the nationality of their parents owing to restrictions on transmission of nationality to children born abroad. Where the nationality of the parents can be acquired through a registration or other procedure, this will be impossible owing to the very nature of refugee status which precludes refugee parents from contacting their consular authorities.		
PRS	2	a	Foundlings	Are foundlings granted citizenship <i>by law</i> ? If it's not automatic, is there an application procedure?	<ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: A foundling found in the territory of a Contracting State shall, in the absence of proof to the contrary, be considered to have been born within that territory of parents possessing the nationality of that State. • European Convention on Nationality, 1997: Each State Party shall provide in its internal law for its nationality to be acquired ex lege by the following persons: [...] b) foundlings found in its territory who would otherwise be stateless. 	Yes. German law states that a foundling shall be deemed the child of a male German. If only the mother is later identified, the law is interpreted so that the child is considered as descending from a male German until both parents are identified.	Art 4, Staatsangehörigkeitsgesetz in der im Bundesgesetzblatt Teil III, Gliederungsnummer 102-1, veröffentlichten bereinigten Fassung, zuletzt geändert durch Artikel 3 des Gesetzes vom 11. Oktober 2016 (BGBl 2016 I, 2218) [Nationality Act]: https://www.gesetze-im-inter-net.de/rustag/BJNR005830913.html (DE) Thomas Oberhäuser, 'StAG §4. Erwerb durch Geburt', in Rainer M Hofman, Ausländerrecht (2nd edn, CH Beck 2016) recital 5
PRS	2	b		If yes to either question immediately above, is there an age limit (or status e.g. 'newborn') specified for foundlings to be granted citizenship? If not, when would a child usually qualify in practice?	<ul style="list-style-type: none"> • UNHCR Guidelines on Statelessness #4 2012: At a minimum, the safeguard ... is to apply to all young children who are not yet able to communicate accurately information pertaining to the identity of their parents or their place of birth... If a State provides for an age limit for foundlings to acquire nationality, the age of the child at the date the child was found is decisive and not the date when the child came to the attention of the authorities. 	No. The child should be 'helpless', which is interpreted to mean that the child should not be able to provide any information about his/ her origin. This can apply to older, minor children as well, who may not be able to express themselves or understand complex procedures.	Thomas Oberhäuser, 'StAG §4. Erwerb durch Geburt', in Rainer M Hofman, Ausländerrecht (2nd edn, CH Beck 2016) recital 8 4.2 Allgemeine Verwaltungsvorschrift zum Staatsangehörigkeitsrecht (StAR-VwV) vom 13. Dezember 2000 [General Administrative Regulation to the Nationality Act]: http://www.verwaltungsvorschriften-im-inter-net.de/bsvwvbund_13122000_V612400513.htm (DE)
PRS	2	c		Can citizenship be withdrawn from foundlings if parents	<ul style="list-style-type: none"> • UNHCR Guidelines on Statelessness #4 2012: Nationality acquired by foundlings pursuant to Article 2 of the 1961 Convention may only be lost if it is 	No.	Art 16, Grundgesetz für die Bundesrepublik Deutschland in der im Bundesgesetzblatt Teil III, Gliederungsnummer 100-1,

				are identified even if this leads to statelessness?	proven that the child concerned possesses another State's nationality.		veröffentlichten bereinigten Fassung, zuletzt geändert durch Artikel 1 des Gesetzes vom 13. Juli 2017 (BGBl 2017 I, 2347) [Basic Law]: https://www.gesetze-im-internet.de/gg/(DE)
PRS	3	a	Adoption	Where a child national is adopted by foreign parent(s), does the child lose their original nationality before the new nationality is adopted?	<ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: If the law of a Contracting State entails loss of nationality as a consequence of any change in the personal status of a person such as marriage, termination of marriage, legitimation, recognition or adoption, such loss shall be conditional upon possession or acquisition of another nationality. • European Convention on Nationality, 1997: Each State Party shall facilitate in its internal law the acquisition of its nationality for the following persons: ...d) children adopted by one of its nationals... Each State Party shall permit the renunciation of its nationality provided the persons concerned do not thereby become stateless. • Committee on the Rights of the Child, Concluding Observations: Switzerland, CRC/C/CHE/CO/2-04, 2015: [recommended that Switzerland] accelerate the assessment procedure and ensure that a child adopted from abroad is not stateless or discriminated against during the waiting period between his or her arrival in the State party and formal adoption. • ENS (2015), No Child Should Be Stateless: ...the "sending" state in a situation of inter-country adoption may be a non-European one, so even if Europe's nationality laws were all in alignment with international standards, children may be exposed to a (temporary) risk of statelessness during the adoption process. 	No.	Arts 17, 27, Staatsangehörigkeitsgesetz in der im Bundesgesetzblatt Teil III, Gliederungsnummer 102-1, veröffentlichten bereinigten Fassung, zuletzt geändert durch Artikel 3 des Gesetzes vom 11. Oktober 2016 (BGBl 2016 I, 2218) [Nationality Act]: https://www.gesetze-im-internet.de/rustag/BJNR005830913.html (DE)
PRS	3	b		Does a foreign child adopted by national parents acquire nationality? Is there a	<ul style="list-style-type: none"> • European Convention on Nationality, 1997: Each State Party shall facilitate in its internal law the acquisition of its nationality for the following 	Yes. A child who is under 18 at the time of application for adoption shall acquire nationality on valid adoption by a	Arts 3(1), 6, Staatsangehörigkeitsgesetz in der im Bundesgesetzblatt Teil III, Gliederungsnummer 102-1, veröffentlichten bereinigten Fassung, zuletzt geändert durch

				<p>risk of statelessness during the adoption process? Are there any age limits?</p>	<p>persons: ...d) children adopted by one of its nationals...</p> <ul style="list-style-type: none"> • Committee on the Rights of the Child, Concluding Observations: Switzerland, CRC/C/CHE/CO/2-04, 2015: ...ensure that a child adopted from abroad is not stateless or discriminated against during the waiting period between...arrival...and formal adoption. 	<p>German under German law. The acquisition of nationality shall extend to the child's descendants. There is no risk of statelessness.</p>	<p>Artikel 3 des Gesetzes vom 11. Oktober 2016 (BGBl 2016 I, 2218) [Nationality Act]: https://www.gesetze-im-inter-net.de/rustag/BJNR005830913.html (DE)</p> <p>Art 2, Gesetz über Wirkungen der Annahme als Kind nach ausländischem Recht vom 5. November 2001 (BGBl 2001 I, 2950, 2953), zuletzt geändert durch Artikel 22 des Gesetzes vom 20. November 2015 (BGBl 2015 I, 2010) [Law on the Effects of Adoptions according to Foreign Law]: http://www.gesetze-im-inter-net.de/adwirkg/BJNR295300001.html</p> <p>27.1 Allgemeine Verwaltungsvorschrift zum Staatsangehörigkeitsrecht (StAR-VwV) vom 13. Dezember 2000 [General Administrative Regulation for the Nationality Act]: http://www.verwaltungsvorschriften-im-inter-net.de/bsvwvbund_13122000_V612400513.htm (DE)</p>
PRS	4	a	Ius sanguinis and discrimination	<p>Can children of a parent who is a national, born outside the country, access nationality by descent (ius sanguinis)? Are there any conditions? Could these conditions be regarded as discriminatory?</p>	<ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: Art 4 • UNHCR Guidelines on Statelessness #4 2012: ...where a child who would otherwise be stateless is born in a Contracting State to parents of another Contracting State but does not acquire the nationality of the State of birth automatically and either misses the age limit to apply for nationality or cannot meet the habitual residence requirement in the State of birth... responsibility falls to the Contracting State of the parents to grant its nationality to the child (or children) of its national... where children of a national of a Contracting State who would otherwise be stateless are born in a non-Contracting State... the Contracting State of the 	<p>Not in all cases. Under the Nationality Act, German citizenship shall not be acquired in case of birth abroad if the German parent was born abroad after 31 December 1999 and is ordinarily resident abroad, unless the child would otherwise be stateless, or unless an application for certification of the birth is filed with the competent authorities within a year of the child's birth. However, even if the parent has not registered the child with the German</p>	<p>Art 4, Staatsangehörigkeitsgesetz in der im Bundesgesetzblatt Teil III, Gliederungsnummer 102-1, veröffentlichten bereinigten Fassung, zuletzt geändert durch Artikel 3 des Gesetzes vom 11. Oktober 2016 (BGBl 2016 I, 2218) [Nationality Act]: https://www.gesetze-im-inter-net.de/rustag/BJNR005830913.html (DE)</p> <p>Thomas Oberhäuser, 'StAG §4. Erwerb durch Geburt', in Rainer M Hofman, Ausländerrecht (2nd edn, CH Beck 2016) recital 31</p>

				<p>parents [is required] to grant its nationality to the child (or children) of its nationals born abroad... Article 4 of the 1961 Convention must be read in light of developments in international human rights law, in particular the right of every child to acquire a nationality... and the principle of the best interests of the child ...</p> <ul style="list-style-type: none"> • Genovese v. Malta (ECtHR) Application No. 53124/09, 11 October 2011: While the right to citizenship is not as such a Convention right and while its denial in the present case was not such as to give rise to a violation of Article 8, the Court considers that its impact on the applicant’s social identity was such as to bring it within the general scope and ambit of that article. Maltese legislation expressly granted the right to citizenship by descent and established a procedure to that end. Consequently, the state which has gone beyond its obligations under Article 8 in creating such a right [. . .] must ensure that the right is secured without discrimination within the meaning of Article 14. • ENS (2015), No Child Should Be Stateless: States are free to impose additional conditions [to ius Sanguinis conferral], as long as these are not discriminatory in nature... safeguards should again be in place to ensure that statelessness does not result.... • UNHCR Global Action Plan to End Statelessness 2014-24: Action 4 • Fighting statelessness and discriminatory nationality law in Europe, Laura van Waas, 2012 • Convention on the Elimination of all Forms of Discrimination Against Women, General recommendation No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, November 2014 	<p>authorities, the child of a German national has the right to enter and leave the country with their parent under the Residence Act and is entitled to privileged naturalisation.</p>	
PRS	4	b	Can children of a parent who is a	As above	Yes (see above). If the child acquires a nationality from the	Art 4, Staatsangehörigkeitsgesetz in der im Bundesgesetzblatt Teil III,

				national, born outside the country, access nationality by descent (ius sanguinis) if they would otherwise be stateless? Are there any conditions? Could these conditions be regarded as discriminatory?		other parent or from the country of birth, Article 4(1) of the Law on the Reduction of Statelessness does not apply. The acquisition of citizenship of the child must be certain; the likelihood to acquire a nationality upon request is not enough.	Gliederungsnummer 102-1, veröffentlichten bereinigten Fassung, zuletzt geändert durch Artikel 3 des Gesetzes vom 11. Oktober 2016 (BGBl 2016 I, 2218) [Nationality Act]: https://www.gesetze-im-inter-net.de/rustag/BJNR005830913.html (DE) Thomas Oberhäuser, 'StAG §4. Erwerb durch Geburt', in Rainer M Hofman, Ausländerrecht (2nd edn, CH Beck 2016) recital 29
PRS	5	a	Access to birth registration	Does the law provide that all children are registered immediately upon birth? Can children be registered if parents are undocumented and/or not legally residing in the country (by law)?	<ul style="list-style-type: none"> • Convention on the Rights of the Child 1989: The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents. • International Covenant on Civil and Political Rights 1966: Art 24(2) • Council of Europe, Recommendation CM/Rec (2009) 13 of the Committee of Ministers to member states on the nationality of children: register the birth of all children born on their territory, even if they are born to a foreign parent with an irregular immigration status or if the parents are unknown, in order to safeguard their right to a nationality. The registration of birth should be free of charge and be performed without delay, even if the period within which the birth should have been declared has already expired. • UNHCR Guidelines on Statelessness #4 2012: ... registration of the birth provides proof of descent and of place of birth and therefore underpins implementation of the 1961 Convention and related human rights norms. Article 7 of the CRC specifically requires the registration of the birth of all children and applies irrespective of the nationality, statelessness or residence status of the parents. 	Yes, according to the Civil Status Act, children must be registered immediately, including in detention centres. The birth must be communicated to the registry office in the jurisdiction where the child was born, either by any parent entitled to custody, any person who was present at or who is informed about the birth, or the institution. Documents such as the birth certificates of the parents, marriage certificate or a certified copy of their marriage register, a recognised passport (replacement papers) of the parents must be submitted. A child can be registered even if the parents' stay in the country is irregular. If parents cannot present the documentation required other evidence may be provided. If these are not easier to obtain, or if the actual facts of the persons concerned cannot be proved by public or	Arts 9,18, 19, 20, 22, 4, 25, 26, 27, 54, 55 Personenstandsgesetz vom 19. Februar 2007 (BGBl 2007 I, 122), zuletzt geändert durch Artikel 2 Absatz 2 des Gesetzes vom 20. Juli 2017 (BGBl 2017 I, 2787) [Civil Status Act]: https://www.bgbl.de/xa-ver/bgbl/start.xav#_bgbl_%2F%2F%5B%40attr_id%3D%27bgbl107s0122.pdf%27%5D1525384266464 (DE) Arts 8, 33, 35, Personenstandsverordnung (PStV) vom 22. November 2008 (BGBl 2008 I, 2263), zuletzt geändert durch Artikel 2 des Gesetzes vom 17. Juli 2017 (BGBl 2017 I, 2522) [Regulation on Civil Status]: https://www.gesetze-im-inter-net.de/pstv/BJNR226300008.html (DE) Antwort der Bundesregierung auf die Kleine Anfrage der Abgeordneten Volker Beck (Köln), Luise Amtsberg, Dr. Franziska Brantner, weiterer Abgeordneter und der Fraktion BÜNDNIS 90/DIE GRÜNEN, 'Geburtsurkunden von Flüchtlingskindern' BT-Drucksache 19/1688 (13 Juli 2016) [Reply of the Federal Government to the small inquiry of the MP Volker Beck

				<ul style="list-style-type: none"> • UNHCR Global Action Plan to End Statelessness 2014-24: Action 7 Ensure birth registration for the prevention of statelessness. • UN Sustainable Development Goal 16: By 2030, provide legal identity for all, including birth registration. • UN Human Rights Council, Resolution A/HRC/RES/20/4: Calls upon States to ensure free birth registration, including free or low-fee late birth registration, for every child, and underscores the importance of effective birth registration and provision of documentary proof of birth irrespective of his or her immigration status and that of his or her parents or family members, which can contribute to reducing statelessness, as well as reducing vulnerability to trafficking in persons and other abuses and violations of their human rights. 	<p>other certificates, the civil registrar can take a declaration on oath as ultimo ratio. However, due to the federal system, it is the competent registry office in each federal state that needs to decide whether the conditions for a declaration on oath are met. If the required documents cannot be presented, parents do not receive a birth certificate (<i>Geburtsurkunde</i>) but an extract from the birth register (<i>Auszug aus dem Geburtenregister</i>), which also serves as an official document with equal legal status (Civil Status Act; BT-Drucksache 18/9163). If the identity of the parents cannot be proven, the extract of the registry contains the additional note 'identity not established' (Regulation on the Civil Status Act). However, such notes on the identity of the parents are emergency solutions and can cause problems in the future, e.g. for naturalisation. The extract contains information that does not appear in the birth certificate (e.g. place of birth with street name – if any, house number – if any, birth time). Birth registration in Germany could also lead to statelessness of foreign children if the child is only registered with the mother due to a missing marriage</p>	<p>(Cologne), Luise Amtsberg, Dr Franziska Brantner, other members of parliament and BÜNDNIS 90/DIE GRÜNEN, 'Birth certificates of refugee children': http://dip21.bundes-tag.de/dip21/btd/18/091/1809163.pdf (DE)</p> <p>Antrag, 'Staatenlosigkeit weltweit abschaffen – Für das Recht, Rechte zu haben' [Application: Abolishing statelessness worldwide - For the right to have rights] BT-Drucksache 19/1688 (17 April 2018) 2: http://dip21.bundes-tag.de/dip21/btd/19/016/1901688.pdf (DE)</p> <p>Schwäbisch Hall, Standesamt, 'Information für Flüchtlinge zur Ausstellung einer Geburtsurkunde' (Dezember 2017) [Schwäbisch Hall, Registry Office, 'Information for refugees on the issue of birth certificate' (Dec.2017)]: https://www.freundskreis-asyl-sha.de/wp-content/uploads/2018/01/16-01-2018-Hinweise-Standesamt-Ge-burtsurkunde-Deutsch.pdf (DE)</p> <p>Deutsches Institut für Menschenrechte, Monitoring-Stelle UN-Kinderrechtskonvention, 'Keine Papiere – keine Geburtsurkunde? Empfehlungen für die Registrierung von in Deutschland geborenen Kindern Geflüchteter' (Position Nr. 18, Dezember 2018) 3 [German Institute for Human Rights, National CRC Monitoring Mechanism, 'No papers – No birth certificate? Recommendations for the registration of children of refugees born in Germany' (Position No 18, Dec2018) 1]:</p>
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						certificate of the parents. This is particularly the case for countries that do not allow the mother to pass on her nationality to the child. In some cases, the child may face stigma if perceived as a child born out of wedlock.	https://www.institut-fuer-menschenrechte.de/fileadmin/user_upload/Publikationen/POSITION/Position_18_Keine_Papiere_keine_Geburtsurkunde.pdf (DE)
PRS	5	b	Are there credible reports that suggest that children are prevented from registering <i>in practice</i> because of lack of documentation and/or parents' legal residence?	<ul style="list-style-type: none"> • Convention on the Rights of the Child 1989: Art 7(1) • International Covenant on Civil and Political Rights 1966: Art 24(2) • Council of Europe, Recommendation CM/Rec (2009) 13 of the Committee of Ministers to member states on the nationality of children: as above. • UNHCR Guidelines on Statelessness #4 2012: as above. • UNHCR Global Action Plan to End Statelessness 2014-24: Action 7 • UN Sustainable Development Goal 16 • UN Human Rights Council, Resolution A/HRC/RES/20/4: as above 	Yes, there are reports that refugees and undocumented migrants face problems certifying the birth of their children due to missing documents (marriage certificate, birth certificate), or fear of being deported, due to the obligation on the registry authorities to report irregular migrants. Undocumented migrants may not give birth in hospitals, so the child would not be automatically registered by the institution. According to a study on birth registration, the declaration on oath is hardly applied, and if so, not necessarily accepted as an equal valid document, for instance by public health insurances. Missing marriage certificates and differing names of the parents can create barriers for access to basic needs in practice despite such a legal declaration. Due to the federal system, there is no data on the number of declarations of oaths accepted by the registry offices. A similar problem appears with	<p>Deutsches Institut für Menschenrechte, Die Politik muss dafür sorgen, dass Kinder von Geflüchteten Geburtsurkunden erhalten, Press release, 1 June 2016 (DE)</p> <p>Geburtsurkunden von Flüchtlingskindern [Birth certificates of refugee children] BT-Drucksache 18/9163 (13 July 2016) (DE)</p> <p>Convention on the Rights of the Child, Committee on the Rights of the Child, Concluding observations on the combined third and fourth periodic reports of Germany*, 25 February 2014, UN Doc CRC/C/DEU/CO/3-4</p> <p>Deutsches Institut für Menschenrechte, How to register your newborn: http://www.institut-fuer-menschenrechte.de/fileadmin/user_upload/Publikationen/Weitere_Publikationen/Info_How_to_Register_Your_Newborn.pdf</p> <p>Deutsches Institut für Menschenrechte, Monitoring-Stelle UN-Kinderrechtskonvention, 'Keine Papiere – keine Geburtsurkunde? Empfehlungen für die Registrierung von in Deutschland geborenen Kindern Geflüchteter' (Position Nr. 18, Dezember 2018) 1 [German Institute for Human Rights, National CRC Monitoring</p>	

					<p>extracts from the birth registers: despite its legal equal status to a birth certificate, they are often not recognised as suitable equivalent in practice, and consequently not accepted for access to basic services and benefits. In general, declarations on oath are limited to information which should be supported by certificates in accordance with the law and strictly concern facts, not legal conclusions. Further evidence shows that refugee children are not even issued an extract from the birth register (<i>Auszug aus dem Geburtenregister</i>), but only received a provisional certificate (<i>vorläufige Bescheinigung</i>) indicating that the birth of the child was communicated but not registered. Such a certificate does not have the same value as the extract nor the birth certificate (Social Court Munich) and prevents families e.g. from access to parental benefits, important preventive health check-ups and the issue of a national tax number which in turn prevents access to social security entitlements. To date though, there is no solid data collection on such cases by the Ministries of the Interior (<i>Landesinnenministerien</i>). Overall, administrative practice in the case of lack of</p>	<p>Mechanism, ‘No papers – No birth certificate? Recommendations for the registration of children of refugees born in Germany’ (Position No 18, Dec 2018) 1]: https://www.institut-fuer-menschenrechte.de/fileadmin/user_upload/Publikationen/POSITION/Position_18_Keine_Papiere_keine_Geburtsurkunde.pdf (DE)</p> <p>SG München, Urteil v 04.05.2018 – S 46 EG 130/17, Rn 16 [Social Court Munich, Judgment of 4.05.2018 - S 46 EG 130/17, recital 16]: http://www.gesetze-bayern.de/Content/Document/Y-300-Z-BECKRS-B-2018-N-9120?hl=true&AspxAutoDetectCookieSupport=1 (DE)</p> <p>Sozialrecht-Justament, ‘Sozialrecht-Justament. Rechtswissen für die existenzsichere Sozialberatung (Jg 6/ Nr 7)’ (Juli 2018) 1: https://www.asylimoberland.de/fileadmin/user_upload/infos_asyl/Wegweiser_Asyl/Informationen_zum_bayerischen_Familiengeld.pdf (DE)</p> <p>Berufsverband der Kinder- und Jugendärzte e. V., ‘Die unsichtbaren Kinder – ohne Geburtsurkunde, ohne Gesundheitsschutz’ (4 June 2016): https://www.kinderaerzte-im-netz.de/news-archiv/meldung/article/die-unsichtbaren-kinder-ohne-geburtsurkunde-ohne-gesundheitsschutz/ (DE)</p> <p>Arts 62-63, <i>Einkommensteuergesetz vom 8. Oktober 2009 (BGBl 2009 I, 3366, 3862)</i>, zuletzt geändert durch Artikel 6 Absatz 2</p>
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						<p>proof of identity differs significantly between registry offices. The German Institute for Human Rights provides guidance on these issues.</p>	<p><i>des Gesetzes vom 19. Dezember 2018 (BGBl 2018 I, 2672)</i> [Income Tax Act]: https://www.gesetze-im-internet.de/estg/BJNR010050934.html (DE)</p> <p>GGUA Flüchtlingshilfe, ‘Musterbrief. Eintragung der Familienversicherung für mein/e Kind/er’ [GGUA Refugee Aid, ‘Sample letter. Registration of family insurance for my child/ children]: https://www.ggua.de/fileadmin/downloads/ggua/Clearingstelle/Muster_Fami_ohne_Geburtsurkunde_Gefluechtete.pdf (DE)</p> <p>Andrea Koch and Victoria Lies, ‘Geboren, registriert – und dann? Probleme bei der Geburtenregistrierung von Flüchtlingskindern in Deutschland und deren Folgen (Working Paper 16, Humboldt Law Clinic Grund- und Menschenrechte in Kooperation mit der Monitoring-Stelle UN-Kinderrechts-konvention des Deutschen Instituts für Menschenrechte 2018) 12, 26: http://hlcmr.de/wp-content/uploads/2018/01/Paper_Geburtenregistrierung.pdf (DE)</p>
PRS	5	c		<p>Are there mandatory reporting requirements for authorities which would deter undocumented parents coming forward to register their children (e.g. medical authorities required</p>	<ul style="list-style-type: none"> • UNICEF, Access to Civil, Economic and Social Rights for Children in the Context of Irregular Migration, 2012: While there is generally a separation between civil registries and immigration enforcement, undocumented parents may also fear detection, particularly in countries where civil servants have a duty to report undocumented migrants... • PICUM, Rights of Accompanied Children in an Irregular Situation, 2011: Certain barriers that prevent access to basic rights for children in an irregular migration situation arise across the registry, 	<p>Yes. Public bodies must notify the authorities of any foreigner without the required residence permit, whose deportation has not been suspended, or any breach of geographic restrictions, or any other grounds for expulsion.</p>	<p>Art 87, <i>Aufenthaltsgesetz (AufenthG) vom 25. Februar 2008 (BGBl 2008 I, 162)</i>, zuletzt geändert durch Artikel 1 des Gesetzes vom 12. Juli 2018 (BGBl 2018 I, 1147) [Residence Act]: https://www.gesetze-im-internet.de/aufenthg_2004/BJNR195010004.html (DE)</p> <p>Stellungnahme der Zentralen Kommission zur Wahrung ethischer Grundsätze in der</p>

				to report undocumented migrants)?	health, education and housing sectors. National legislation is often below the standards set out in human rights law, inexplicit or contradicted by other rules and practices, such as the duty to denounce or administrative requirements.		Medizin und ihren Grenzgebieten (Zentrale Ethikkommission) bei der Bundesärztekammer, «Versorgung von nicht regulär krankenversicherten Patienten mit Migrationshintergrund“, in Deutsches Ärzteblatt (2013) Heft 18, 899-903
PRS	6	a	Late Birth Registration	Is there a statutory deadline before which birth registration should be completed? If yes, what is it? Is late birth registration possible by law?	<ul style="list-style-type: none"> • UNHCR Global Action Plan to End Statelessness 2014-24: Low levels of birth registration can be difficult to correct subsequently because procedures for late birth registration have not been established or are lengthy, costly and complex and therefore inaccessible to undocumented populations... States also need procedures for late and delayed birth registration and may consider undertaking campaigns to register older children and adults. Birth registration needs to be free, accessible and undertaken on a non-discriminatory basis. • UN Human Rights Council, Resolution A/HRC/RES/20/4: as above. • Council of Europe, Recommendation CM/Rec (2009) 13 of the Committee of Ministers to member states on the nationality of children: as above. • ENS (2015), No Child Should Be Stateless: One of the ways in which states have sought to deal with an intergenerational lack of documentation is by simplifying the procedures for the late registration of births, making it easier for adults who do not have a birth certificate to acquire one, which can subsequently be used to register their own children's births... 	No, there is no deadline for late birth registration set in law. Under the Civil Status Act, a person born abroad, or their children, can register late. However, stateless people must have habitual residence, and need to present a travel document, to register late.	<p>Art 36, Personenstandsgesetz (PStG) vom 19. Februar 2007 (BGBl 2007 I, 122), zuletzt geändert durch Artikel 2 Absatz 2 des Gesetzes vom 20. Juli 2017 (BGBl 2017 I, 2787) [Civil Status Act]: https://www.bgbl.de/xa-ver/bgbl/start.xav#_bgbl_%2F%2F%5B%40attr_id%3D%27bgbl107s0122.pdf%27%5D1525384266464 (DE)</p> <p>Arts 19, 21, Einführungsgesetz zum Bürgerlichen Gesetzbuche in der Fassung der Bekanntmachung vom 21. September 1994 (BGBl 1994 I, 2494; 1997 I, 1061), zuletzt geändert durch Artikel 4 des Gesetzes vom 20. Juli 2017 (BGBl 2017 I, 2787) [Introductory Act to the Civil Code]: https://www.gesetze-im-internet.de/bgbeg/BJNR006049896.html (DE)</p>
PRS	6	b		Is late birth registration possible in practice?	<ul style="list-style-type: none"> • UNHCR Global Action Plan to End Statelessness 2014-24: as above. 	Yes. Registry offices provide guidance on their webpages on late birth registration (birth	Universitäts- und Hansestadt Greifswald, 'Standesamt. Leistungen des Standesamtes. Nachbearbeitungen':

					<ul style="list-style-type: none"> • UN Human Rights Council, Resolution A/HRC/RES/20/4: as above. • Council of Europe, Recommendation CM/Rec (2009) 13 of the Committee of Ministers to member states on the nationality of children: as above. • ENS (2015), No Child Should Be Stateless: as above. 	abroad), which includes stateless people with habitual residence.	https://www.greifswald.de/de/verwaltung-politik/rathaus/standesamt/ (DE) Berlin.de, Service-Portal Berlin ‘Geburt im Ausland – Nachbeurkundung’: https://service.berlin.de/dienstleistung/318959/ (DE)
PRS	6	c		Are there any additional requirements (e.g. fee) for the late birth registration procedure? Are these problematic or do they cause lengthy delays?	<ul style="list-style-type: none"> • UN Human Rights Council, Resolution A/HRC/RES/20/4: as above. 	The basic fees for late registration for birth abroad paid to the Registry Offices vary between the federal states (e.g. 40 EUR in Greifswald and 60 EUR in Berlin). Other related fees may apply.	Universitäts- und Hansestadt Greifswald, ‘Standesamt. Leistungen des Standesamtes. Nachbeurkundungen’: https://www.greifswald.de/de/verwaltung-politik/rathaus/standesamt/ (DE) Berlin.de, Service-Portal Berlin ‘Geburt im Ausland – Nachbeurkundung’: https://service.berlin.de/dienstleistung/318959/ (DE)
PRS	7	a	Reduction	Does the government have any programmes in place to promote civil registration (including birth registration)? If yes, please provide details.	<ul style="list-style-type: none"> • UNHCR Global Action Plan to End Statelessness 2014-24: Action 7 • Council of Europe, 3rd European Conference on Nationality, 11-12 October 2004: Taken together Art 7 & 8 ECHR should be understood to encourage States Parties not only to take positive steps to avoid statelessness – including the promotion of birth registration – but also to grant citizenship to children who would otherwise be stateless... 	There is no evidence of any government campaigns to promote civil registration. The German Institute for Human Rights, in cooperation with other NGOs, began a campaign in June 2016 to promote birth registration, targeting refugees. It provides additional information for people who do not have the necessary documentation. The information is provided in English, Farsi, Arabic and German.	Deutsches Institut für Menschenrechte, How to register your newborn: http://www.institut-fuer-menschenrechte.de/fileadmin/user_upload/Publikationen/Weitere_Publikationen/Info_How_to_Register_Your_Newborn.pdf Deutsches Institut für Menschenrechte, Informationen für Geflüchtete, So registrieren Sie Ihr neugeborenes Kind: http://www.institut-fuer-menschenrechte.de/fileadmin/user_upload/Publikationen/Weitere_Publikationen/Info_So_registrieren_Sie_Ihr_neugeborenes_Kind.pdf (DE)
PRS	7	b		Are there sections of the population believed to be stateless/at risk of statelessness? Are minorities	<ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961 Article 9 • UNHCR Global Action Plan to End Statelessness 2014-24: Action 4 	Undocumented migrants, refugees, and people with unclear nationality are believed to be at risk of statelessness.	Andrea Koch & Victoria Lies, Geboren, registriert – und dann? Probleme bei der Geburtenregistrierung von Flüchtlingskindern in Deutschland und deren Folgen, Working Paper 16, Humboldt Law Clinic Grund- und Menschenrechte in

				disproportionately affected? Please provide details and source of information.			Kooperation mit der Monitoring-Stelle UN-Kinderrechts-konvention des Deutschen Instituts für Menschenrechte, 2018: http://hlcmr.de/wp-content/uploads/2018/01/Paper_Geburtenregistrierung.pdf (DE)
PRS	7	c		Has the Government implemented any other measures specifically aimed at reducing (risk of) statelessness? (e.g. identification, registration or naturalisation campaigns, removal of treaty reservations, reform of discriminatory laws, etc.)	<ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961 • UNHCR Global Action Plan to End Statelessness 2014-24: Action 1, Action 8 • UNHCR, Good Practices Paper - Action 1: Resolving Existing Major Situations of Statelessness, 2015 	There is no evidence of any other measures specifically aimed at reducing the risk of statelessness.	
PRS	8	a	Withdrawal of nationality	Are there any provisions on loss and/or deprivation of nationality? If yes, are these established in law? If not, where can they be found? Do any provisions allow for statelessness? If there is a safeguard against statelessness, is it applied in practice?	<ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: Article 8: A contracting state shall not deprive a person of its nationality if such deprivation would render him stateless. • European Convention on Nationality, 1997: Article 7(3): A State party may not provide in its internal law for the loss of its nationality...if the person concerned would thereby become stateless... • Universal Declaration of Human Rights: Article 15(2) No one shall be arbitrarily deprived of his nationality ... 	Yes, there are provisions on loss and deprivation of nationality in law. Deprivation of nationality is allowed even if the person becomes stateless in the case of unlawful naturalisation or permission to retain German nationality. Withdrawal of nationality has been applied in practice on the grounds of intentional deception. Germans can lose their nationality (on the condition it doesn't make them stateless) if they apply for another nationality (and granting is assured) unless they obtain a retention permit (<i>Beibehaltungsgenehmigung</i>). Loss is not enforceable if the individual	Art 16(1), Grundgesetz für die Bundesrepublik Deutschland in der im Bundesgesetzblatt Teil III, Gliederungsnummer 100-1, veröffentlichten bereinigten Fassung, zuletzt geändert durch Artikel 1 des Gesetzes vom 13. Juli 2017 (BGBl 2017 I, 2347) [Basic Law]: https://www.gesetze-im-internet.de/gg/ (DE) Arts 18, 24-29, 35(1)-(2), Staatsangehörigkeitsgesetz in der im Bundesgesetzblatt Teil III, Gliederungsnummer 102-1, veröffentlichten bereinigten Fassung, zuletzt geändert durch Artikel 3 des Gesetzes vom 11. Oktober 2016 (BGBl 2016 I, 2218) [Nationality Act]: https://www.gesetze-im-internet.de/rustag/BJNR005830913.html (DE)

						<p>applies for nationality of another EU member state or Switzerland. Nationality may also be lost: on adoption by foreigners; repeal of adoption (under certain conditions); if someone holds multiple nationalities and wants to be released from German nationality; if born in Germany to foreign parents but grew up abroad and didn't declare by their 21st birthday that they want to retain German nationality; if someone voluntarily enlists with the armed forces of a foreign state without the consent of the German Government.</p>	<p>Art 1764(1), S 1 Bürgerliches Gesetzbuch vom 2. Januar 2002 (BGBl I 2002, 42, 2909; BGBl I 2003, 738) zuletzt geändert durch Gesetz vom 12. Juli 2018 (BGBl 2018 I, 1151) mWv 01. November 2018 [Civil Code]</p> <p>Art 22(1), Einführungsgesetz zum Bürgerlichen Gesetzbuche vom 21. September 1994 (BGBl 1994 I, 2494; 1997 I, 1061) zuletzt geändert durch Gesetz vom 20. Juli 2017 (BGBl 2017 I, 2787) mWv 1. Oktober 2017 [Introductory Art to the Civil Code]: https://www.gesetze-im-internet.de/bgbeg/BJNR006049896.html (DE)</p> <p>Marcel Kau, '§6 Annahme als Kind' in Kay Hailbronner, Hans-Georg Maaßen, Jan Hecker, Marcel Kau, Staatsangehörigkeitsrecht (6th edn, CH Beck 2017) 281, recital 29</p> <p>Kay Hailbronner and Jan Hecker, 'StAG § 35 [Rücknahme einer Einbürgerung bzw. rechtswidrige Genehmigung zur Beibehaltung]' in Kay Hailbronner, Hans-Georg Maaßen, Jan Hecker, Marcel Kau, Staatsangehörigkeitsrecht (6th edn, CH Beck 2017) StAG §35 recitals 45-48</p> <p>Manuela Sissy Kraus, Menschenrechtliche Aspekte der Staatenlosigkeit (Berliner Wissenschafts-Verlag 2013) 276-279</p> <p>Kay Hailbronner and Hans-Georg Maaßen, 'StAG § 28 [Verlust der Staatsangehörigkeit bei Wehrdienst in fremden Streitkräften]' in Kay Hailbronner, Hans-Georg Maaßen, Jan</p>
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PRS	8	b	Who is the competent authority in any procedure for ordering deprivation of nationality? What procedural guarantees are there? (e.g. judicial oversight, time limit, subject to	<ul style="list-style-type: none"> • UN Convention on the Reduction of Statelessness, 1961: Article 8(4): A contracting state shall not exercise a power of deprivation...except in accordance with the law, which shall provide for ...the right to a fair hearing by a court or other independent body. • European Convention on Nationality, 1997: Article 11: Each state party shall ensure that decisions relating to the acquisition, retention, loss, recovery 	The competent authority for withdrawal and conservation permits of German nationality is the corresponding nationality authority in each federal state and at a local level, the authority where the person has their habitual residence. For Germans abroad, the Federal Office of Administration	<p>Art 35(3)-(5), Staatsangehörigkeitsgesetz in der im Bundesgesetzblatt Teil III, Gliederungsnummer 102-1, veröffentlichten bereinigten Fassung, zuletzt geändert durch Artikel 3 des Gesetzes vom 11. Oktober 2016 (BGBl 2016 I, 2218) [Nationality Act]: https://www.gesetze-im-inter-net.de/rustag/BJNR005830913.html (DE)</p>	

				prior sentencing, appeal rights, legal aid)	or certification of its nationality contain reasons in writing...	(<i>Bundesverwaltungsamt</i>) is the competent authority for withdrawal. There are procedural guarantees including time limits and appeal rights.	<p>Art 80(5), Verwaltungsgerichtsordnung (VwGO) vom 19. März 1991 (BGBl 1991 I, 686), zuletzt geändert durch Gesetz vom 12. Juli 2018 (BGBl 2018 I, 1151) mWv 1 November 2018 [Administrative Procedure Code]: https://dejure.org/gesetze/VwGO (DE)</p> <p>Berthold Münch, § 8 Ermessenseinbürgerung und Erwerb der Staatsangehörigkeit nach ius soli in Reinhard Marx, <i>Ausländer und Asylrecht</i> (3dn, Nomos 2016) §8 recitals 203, 204, 205, 209</p> <p>Arts 41, 43(1), Verwaltungsverfahrensgesetz vom 23. Januar 2003 (BGBl I 2003 , 102), zuletzt geändert durch Artikel 11 Absatz 2 des Gesetzes vom 18. Juli 2017 (BGBl I 2017, 2745) [Administrative Procedures Act]: https://www.bgbl.de/xa-ver/bgbl/start.xav#_bgbl_%2F%2F%5B%40attr_id%3D%27bgbl103s0102.pdf%27%5D1524817836862 (DE)</p> <p>Kay Hailbronner and Jan Hecker, ‘StAG § 35 [Rücknahme einer Einbürgerung bzw. rechtswidrige Genehmigung zur Beibehaltung]’ in Kay Hailbronner, Hans-Georg Maaßen, Jan Hecker, Marcel Kau, <i>Staatsangehörigkeitsrecht</i> (6th edn, CH Beck 2017), StAG § 35 recitals 59-60</p>
PRS	8	c		Are withdrawal provisions (both for loss and deprivation) applied in practice?		Yes.	<p>Administrative Court Würzburg, Judgement of 15 June 2015 – W 7 K 14.981</p> <p>Peter Schlotzer, <i>Staatsangehörigkeitsrecht. Praxishandbuch</i> (Jehle 2017) 73</p>

Jurisprudence and Training

Cat	Q	Sub	Subtheme	Question	International Norms/Good Practice	Answer	Source
LIT	1	a	Published Judgements	Number of published judgements adjudicating statelessness (broken down by level of jurisdiction). Please list.	<p>Brot für die Welt, 'Staatenlose. Die Würde des Menschen gilt auch ohne Pass' (n.d.) https://www.brot-fuer-die-welt.de/themen/staatenlose/ (G)</p> <p>Conference presentation by the President Bread for the World (Germany): Dr. h. c. Cornelia Füllkrug-Weitzel 'Statelessness: A Human rights Issue at the Heart of Churches' Calling' (Regional Conference on Statelessness in the European Context: Prevention, Reduction and Protection, 6-7 September 2017, Berlin) https://www.brot-fuer-die-welt.de/fileadmin/media-pool/2_Downloads/Fachinformationen/Sonstiges/Statelessness_WCC_Conference.pdf (ENG)</p>	<p>Judgments on issues related to statelessness are available in online databases and have been made at different levels:</p> <ol style="list-style-type: none"> 1) Administrative Court (Verwaltungsgericht, VG) 2) Upper Administrative Court (Verwaltungsgerichtshof, VGH) 3) Higher Regional Administrative Court (Oberverwaltungs-gericht, OVG) 4) Federal Administrative Court (Bundesverwaltungsgerichtshof, BVerwG) 5) Federal Constitutional Court (Bundesverfassungsgericht, BverfG) 	<p>OpenJur : https://openjur.de (DE)</p> <p>Portal of the justice authorities of the federal and state governments: http://en.iustiz.de/onlinedienste/rechtsprechung/index.php (DE)</p> <p>Juris, Das Rechtsportal: https://www.iuris.de/jportal/index.jsp (DE)</p> <p>beck-online. Die Datenbank: https://beck-online.beck.de/Rechtsprechung/29335 (DE)</p> <p>Informationsverbund Asyl und Migration e.V., 'Rechtsprechungsdatenbank': http://www.asyl.net/rechtsprechungsdatenbank.html (DE)</p>
LIT	1	b		Number of published judgements mentioning statelessness (broken down by level of jurisdiction).		The total number of court decisions is not counted anywhere.	
LIT	2	a	Legal training	Is there judicial training on statelessness? If yes, please provide details (e.g. provider, frequency).	<ul style="list-style-type: none"> • UNHCR (Good Practices Paper 6): officials who may be in contact with stateless persons need to be trained to identify potential applicants for statelessness status and refer them to appropriate channels. • UNHCR Expert Meeting, Statelessness Determination Procedures and the Status of Stateless Persons 2010: It is recommended that States provide specialized training on nationality laws 	<p>There is no information available on specific training on statelessness. However, statelessness may indirectly form part of trainings or conferences e.g. during discussions on toleration or the obligation to present a passport or travel document. Parts of university courses may therefore deal with statelessness in different contexts.</p>	<p>Brot für die Welt, 'Staatenlose. Die Würde des Menschen gilt auch ohne Pass' (n.d.): https://www.brot-fuer-die-welt.de/themen/staatenlose/ (DE)</p> <p>Conference presentation by the President of Brot für die Welt (Germany): Dr. H. C. Cornelia Füllkrug-Weitzel, 'Statelessness: A Human rights Issue at the Heart of Churches' Calling' (Regional Conference on Statelessness in the European Context: Prevention, Reduction and Protection,</p>

					and practices, international standards and statelessness to officials responsible for making statelessness determinations.		<p>6-7 September 2017, Berlin): https://www.brot-fuer-die-welt.de/fileadmin/mediapool/2_Downloads/Fachinformationen/Sonstiges/Statelessness_WCC_Conference.pdf</p> <p>Sophia Wirsching (Referentin Migration und Entwicklung Brot für die Welt), ‘Staatenlosigkeit & die weitreichenden Folgen am Beispiel des Syrienkonflikts’ (Ringvorlesung "Konflikte in Gegenwart und Zukunft", Universität Marburg, 1 Februar 2017): https://www.online.uni-marburg.de/sem/WS15_16/docs/staatenlosigkeit.pdf (DE)</p> <p>Universität Hamburg, ‘Vortragsreihe der Refugee Law Clinic: Ursachen und Folgen von Staatenlosigkeit’, https://www.jura.uni-hamburg.de/media/ueber-die-fakultaet/aktuelles/2017-06-23-plakat-vortrag-rlc.pdf (DE)</p> <p>Holger Hoffmann, ‘Staatenlose - Rechte und rechtliche Folgen’ (11. Fachtagung Ausländerrecht 2016): https://www.kbw.de/tagungen/fachtagung-auslaenderrecht/2016 (DE)</p>
LIT	2	b		Is there training for lawyers on statelessness? If yes, please describe.	<ul style="list-style-type: none"> • UNHCR Expert Meeting, Statelessness Determination Procedures and the Status of Stateless Persons 2010: as above 	No information was available on any specific training.	
LIT	3	a	Pro Bono	Are there specialised lawyers, law firms or organisations providing free advice to stateless persons or those at risk of statelessness? If yes, please describe.	<ul style="list-style-type: none"> • UNHCR (2014), Handbook on Protection of Stateless Persons: Applicants are to have access to legal counsel. • UNHCR (Good Practices Paper 6): Provides the example of Liverpool Law Clinic providing legal assistance to stateless clients in the UK. 	There are lawyers providing support on issues related to statelessness according to their webpages, though it is not clear whether this is pro bono/free of charge. NGOs, such as Pro Asyl or GGUA, as well as Refugee Law Clinics linked with	<p>For example: Rolf Stahmann (RA): https://stahmann-anwalt.de/migrationsrecht/staatsangehoerigkeit/</p> <p>Pro Asyl: https://www.proasyl.de/en/</p> <p>GGUA: https://www.ggua.de/startseite/</p>

						universities offer legal advice free of charge.	Refugee Law Clinics in Germany: https://rlc-deutschland.de/en/
LIT	4	a	Literature	<p>Is there domestic legal academic literature on statelessness?</p> <p>If possible, please provide number of scholarly articles/references/bodies and hyperlinks etc.</p>		Yes	<p>Dieter Gosewinkel, Einbürgern und Ausschließen. Die Nationalisierung der Staatsangehörigkeit vom Deutschen Bund bis zur Bundesrepublik Deutschland (2nd edn, Vandenhoeck & Ruprecht 2004)</p> <p>Dr. Walter Schätzel, 'Die Staats-angehörigkeit der politischen Flüchtlinge' (1955) 5(1/2) Archiv des Völkerrechts 63</p> <p>Dr. Thomas Jürgens, Diplomatischer Schutz und Staatenlose (Schriften zum Völkerrecht, Band 85, Duncker und Humblot 1987)</p> <p>Ursula Kötters and Rainer Furth, 'FHoeffR Nr. 11904 – Rechtmäßiger Aufenthalt von Staatenlosen bei befristeter Aufenthaltserlaubnis oder Duldung?' (1990) InfAusIR 268</p> <p>Prof. Dr. Holger Hofmann, 'Welche Rechte haben Staatenlose?' (2004) 10 Asylmagazin 5</p> <p>Dr. Stefanie Schmahl, 'Rücknahme erschlichener Einbürgerungen trotz drohender Staatenlosigkeit?' (2007) ZAR 174</p> <p>Philipp B. Donath and Adela Schmidt, 'Die jordanische Staatsangehörigkeit von Palästinensern' (2010) ZAR 391</p> <p>Manuela Sissy Kraus, Menschenrechtliche Aspekte der Staatenlosigkeit (Berliner Wissenschafts-Verlag 2013)</p>

							<p>Peter Jacob, 'Staatenlos, Doppelstaater, deutsch oder gar nichts? : Sich blockierendes Recht bei gemischtnationalen Ehen` (2014) ZAR 409</p> <p>Laura-Theresa Sager, 'Die rechtlichen Folgen von Staatenlosigkeit und Lösungsansätze auf nationaler Ebene` (Bachelor dissertation, Universität Augsburg 2016)</p> <p>Prof. Dr. Holger Hofmann, 'Rechte und rechtliche Folgen` (2017) 9 Asylmagazin 325</p> <p>Kay Hailbronner, Hans-Georg Maaßen, Jan Hecker, Marcel Kau, Staatsangehörigkeitsrecht (6th edn, CH Beck 2017) 92 - 109</p>
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