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International and Regional Instruments

| Item | Subtheme | Question | International Norms & Good Practice | Answer | Source |
|---------|-------------------|---|---|--|--|
| IOB.1.a | 1954 Convention | Is your country party to the 1954 Statelessness Convention? | UN Convention Relating to the Status of Stateless Persons, 1954 | YES | https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=V-3&chapter=5&Temp=mtdsg2&clang=en |
| IOB.1.b | | If yes, when was ratification/accession? | | 17th December 1962 | https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=V-3&chapter=5&Temp=mtdsg2&clang=en |
| IOB.1.c | | Are there reservations in place? Please list them. | Best practice is no reservations. If there are, they should have little or no impact on the rights of stateless people. | YES - Reservation: "With regard to article 29 (1), the Government of Ireland do not undertake to accord to stateless persons treatment more favourable than that accorded to aliens generally with respect to (a) The stamp duty chargeable in Ireland in connection with conveyances, transfers and leases of lands, tenements and hereditaments, and (b) Income tax (including sur-tax)." | https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=V-3&chapter=5&Temp=mtdsg2&clang=en#EndDec |
| IOB.1.d | | Does the Convention have direct effect? | Best practice is that the Convention has direct effect, though this may depend on the legal regime. | NO - Ireland is a dualist State and in order to have formal legal standing within the State, International Agreements must be incorporated into domestic law by the Oireachtas (Parliament). The 1954 has not been incorporated in domestic law by way of national legislation. | Article 29.6 Irish Constitution. No international agreement shall be part of the domestic law of the State save as may be determined by the Oireachtas. http://www.irishstatutebook.ie/eli/cons/en |
| IOB.2.a | 1961 Convention | Is your country party to the 1961 Statelessness Convention? | UN Convention on the Reduction of Statelessness, 1961 | YES | https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=V-4&chapter=5 |
| IOB.2.b | | If yes, when was ratification/accession? | | 18th January 1973 | https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=V-4&chapter=5 |
| IOB.2.c | | Are there reservations in place? Please list them. | As above | Not specified as a reservation or declaration the following was provided: "In accordance with paragraph 3 of article 8 of the Convention Ireland retains the right to deprive a naturalised Irish citizen of his citizenship pursuant to section 19 (1) (b) of the Irish Nationality and Citizenship Act, 1956, on grounds specified in the aforesaid paragraph." | https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=V-4&chapter=5#EndDec |
| IOB.2.d | | Does the Convention have direct effect? | As above | NO - Ireland is a dualist State and in order to have formal legal standing within the State, International Agreements must be incorporated into domestic law by the Oireachtas (Parliament). The 1961 Convention has not been incorporated into domestic law by way of national legislation. | Article 29.6 Irish Constitution. No international agreement shall be part of the domestic law of the State save as may be determined by the Oireachtas. http://www.irishstatutebook.ie/eli/cons/en |
| IOB.3.a | Other conventions | State party to European Convention on Nationality 1997? Please list any reservations. | European Convention on Nationality, 1997 | NO | https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/166/signatures?p_auth=1ZnkzLSr |
| IOB.3.b | | State Party to European Convention on Human Rights 1950? Please list any relevant reservations. | European Convention on Human Rights, 1950 | YES. Reservations: The Government of Ireland do hereby confirm and ratify the aforesaid Convention and undertake faithfully to perform and carry out all the stipulations therein contained, subject to the reservation that they do not interpret Article 6.3.c of the Convention as requiring the provision of free legal assistance to any wider extent than is now provided in Ireland. | https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/signatures?p_auth=1ZnkzLSr Reservations: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/declarations?p_auth=1ZnkzLSr&coeconventions_WAR_coeconventionsportlet_enViguer=false&coeconventions_WAR_coeconventionsportlet_searchBy=state&coeconventions_WAR_coeconventionsportlet_codePays=IRE&coeconventions_WAR_coeconventionsportlet_codeNature=2 Declarations: Related to Emergency Powers - not relevant to Stateless Index |
| IOB.3.c | | State Party to Council of Europe Convention on the avoidance of statelessness in relation to State succession 2006? Please list any reservations. | Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession, 2006 | NO | https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/200/signatures?p_auth=1ZnkzLSr |

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| IOB.3.d | | Bound by Directive 2008/115/EC of the European Parliament and of the Council (EU Returns Directive). Please list any relevant reservations. | Directive 2008/115/EC of the European Parliament and of the Council (EU Returns Directive) | NO | https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008L0115&from=EN Preamble 27 |
| IOB.3.e | | State Party to Convention on the Rights of the Child 1989? Please list any relevant reservations. | Convention on the Rights of the Child 1989 | YES | https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&lang=en |
| IOB.3.f | | State Party to International Covenant on Civil and Political Rights 1966? Please list any relevant reservations. | International Covenant on Civil and Political Rights 1966 | YES | https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-4&chapter=4 |
| IOB.3.g | | State Party to International Covenant on Economic, Social and Cultural Rights 1966? Please list any relevant reservations. | International Covenant on Economic, Social and Cultural Rights 1966 | YES | https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-3&chapter=4&clang=en |
| IOB.3.h | | State Party to Convention on the Elimination of all Forms of Discrimination Against Women 1979? Please list any relevant reservations. | 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 | |
| IOB.3.i | | State Party to Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984? Please list any relevant reservations. | Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984 | YES | https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-9&chapter=4&clang=en |
| IOB.3.j | | State Party to International Convention on the Elimination of All Forms of Racial Discrimination 1966? Please list any relevant reservations. | International Convention on the Elimination of All Forms of Racial Discrimination 1966 | YES | https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-2&chapter=4 |
| 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? Please list any relevant reservations. | International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families 1990 | NO | https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-13&chapter=4 |
| IOB.3.l | | State Party to the Convention on the Rights of Persons with Disabilities 2006? Please list any relevant reservations. | Convention on the Rights of Persons with Disabilities 2006 | YES | https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-15&chapter=4 |

Stateless Population Data

| Item | Subtheme | Question | International Norms & Good Practice | Answer | Source |
|---------|--------------------------|---|---|--|---|
| POP.1.a | Availability and sources | Does the Government have a 'stateless' category in its data collection systems (e.g. census)? Please list available figures for the total stateless population on the territory and describe how data is disaggregated (e.g. by sex, age, residence). | <p>Gen. Rec. 32, CEDAW: States parties should gather, analyse and make available sex-disaggregated statistical data and trends.</p> <p>Council of the European Union (2015): Recognise the importance of exchanging good practices among Member States concerning the collection of reliable data on stateless persons as well as the procedures for determining statelessness.</p> <p>UNHCR (2014): Improve quantitative and qualitative data on stateless populations.</p> <p>Institute on Statelessness and Inclusion (2014): States should strengthen measures to count stateless persons on their territory.</p> | There is no specific 'stateless' category in the Census collection form. However, Question 10 asks respondents about nationality and there is an option 'no nationality'. In the Census 2016 Statistics report regarding non-Irish nationalities living in Ireland, there is no reference to stateless persons and there is no information provided regarding the number of individuals who answered 'no nationality' to Question 10 in that report. However, there is an entire profile in the CSO StatBank dedicated to Migration and Diversity. The first table, E7002, contains a detailed breakdown of nationalities by county. For the entire State, 1,167 respondents identified 'no nationality'. Note that in email correspondence with the CSO, the CSO has confirmed that for the Census 2021, under EU Regulation, the CSO is obliged to capture the country of nationality and the question has been updated to ask respondents what citizenship they have, including possible answer 'no citizenship'. | <p>Central Statistics Office (CSO) Census 2016 Form: https://www.cso.ie/en/census/2016censusforms/</p> <p>Census 2016 Statistics report regarding non-Irish nationalities living in Ireland: https://www.cso.ie/en/releasesandpublications/ep/p-cpnin/cpnin/introduction/</p> <p>See Stat Report for this search: https://statbank.cso.ie/px/pxeirestat/Statire/SelectVarVal/saveselections.asp</p> |
| POP.1.b | | Do government authorities define data categories that may overlap (e.g. unknown nationality) or where stateless people might be more highly represented (e.g. Palestinian)? Please explain and provide any available figures. | As above | No information available. See above. | |
| POP.1.c | | What is UNHCR's estimate for the stateless/at risk of statelessness population and what is the source for this estimate? | As above | <p>There is very limited information or data available. According to UNHCR, in 2019, there were 99 stateless persons in the country. In 2014, UNHCR published a Scoping Paper with relevant information but it has not been updated since. Section 7 notes that in 2014, two formal stateless declarations were issued. Section 8 seeks to document the extent of statelessness in Ireland based on information from the protection system. This identifies that 3 people relocated as Programme Refugees were recorded as stateless but noted that a further 82 were recorded as Burma Rohingya and would usually be considered stateless refugees. The report further notes that since 2000, only 167 applications for refugee status were recorded as made by persons categorised as stateless. Overall, the scoping paper concludes that "Having considered the available data sources and having consulted with the various authorities as to how such data is compiled, it would appear reasonable to conclude that there is an absence of reliable data on potential cases of statelessness such that the extent of incidences of statelessness in Ireland cannot be identified accurately".</p> <p>Monthly statistical reports published by the former Office of the Refugee Applications Commissioner (ORAC) (now International Protection Office (IPO)) typically only identify the top 5 nationalities of applicants.</p> | <p>UN High Commissioner for Refugees (UNHCR), Global Trends Forced Displacement in 2019, June 2020: https://www.unhcr.org/statistics/unhcrstats/5ee200e37/unhcr-global-trends-2019.html</p> <p>UNHCR Scoping Paper: Statelessness in Ireland, 2014: https://www.refworld.org/pdfid/5448b6344.pdf</p> <p>Monthly statistical reports of ORAC available at: http://www.orac.ie/website/orac/orac-website.nsf/page/orac-stats_16-en</p> <p>Monthly statistics reports of IPO available at: http://www.ipo.gov.ie/en/ipo/pages/statistics</p> |
| POP.1.d | | Have there been any surveys or mapping studies to estimate the stateless population in the country? | As above | See above. UNHCR Ireland published a Scoping Paper in 2014. | UNHCR Scoping Paper: Statelessness in Ireland, 2014: https://www.refworld.org/pdfid/5448b6344.pdf |
| POP.1.e | | Are there any other sources of estimates for the stateless population not covered by the above? Please list sources and figures. | As above | From 2002 to 2014, the Refugee Appeals Tribunal (which assesses eligibility for refugee status) found that 82 people were stateless but not refugees. This indicates the existence of a group of people who may be stateless and for whom there is no clear procedure to follow to resolve their legal status. | Irish Times, 'Living in a state of statelessness', 5 November 2014: https://www.irishtimes.com/news/world/living-in-a-state-of-statelessness-1.1987766 |

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| POP.1.f | | Are there issues with the reliability of data or indications that the stateless population may be over/under reported? If yes, please describe. | As above | Yes. As set out above, the UNHCR concluded in the Scoping Paper 2014 that "Having considered the available data sources and having consulted with the various authorities as to how such data is compiled, it would appear reasonable to conclude that there is an absence of reliable data on potential cases of statelessness such that the extent of incidences of statelessness in Ireland cannot be identified accurately". | UNHCR Scoping Paper: Statelessness in Ireland, 2014: https://www.refworld.org/pdfid/5448b6344.pdf |
| POP.1.g | | Please provide any available figures for stateless refugees and/or asylum-seekers and clarify if the Government also counts these groups in figures for the stateless population (i.e. to avoid under/over-reporting). | As above | See details above from the UNHCR Scoping Paper 2014. Note also the limits regarding the monthly statistical data published by ORAC (now IPO) with typically only top 5 nationalities of applicants being identified. | Monthly statistical reports of ORAC available at: http://www.orac.ie/website/orac/orac-website.nsf/page/orac-stats_16-en Monthly statistics reports of IPO available at: http://www.ipo.gov.ie/en/ipo/pages/statistics |
| POP.2.a | Stateless in detention data | Does the Government record and publish figures on stateless people held in immigration detention? If yes, please provide. | As above and see also norms in Detention section. | No information is published regarding the collection of data in relation to the nationality of detainees. The Irish Prison Service publishes annual reports, which provide an overview of the numbers of persons detained in Irish prisons, including the numbers of persons detained pursuant to immigration legislation. The information published is not further disaggregated regarding the nationality of detainees. | See Irish Prison Service Annual Report 2019: https://www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-Annual-Report-2019-Web.pdf |
| POP.2.b | | Does the Government record and publish figures on people released from immigration detention due to un-removability? If yes, please provide. | As above | No. | |

Statelessness Determination and Status

| Item | Subtheme | Question | International Norms & Good Practice | Answer | Source |
|---------|----------------------------------|---|---|---|---|
| SDS.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. | UN Convention Relating to the Status of Stateless Persons, 1954 : Articles 1(1) & 1(2). | No. The International Protection Act 2015 and the Irish Nationality and Citizenship Act 1956 (as amended) contain various references to stateless persons. However, no definition of a stateless person is provided. As part of its submission on the draft General Scheme of this legislation when first published and prior to enactment, the Immigrant Council of Ireland recommended that a definition of a stateless person should be included in line with Article 1, 1954 Convention definition. | International Protection Act 2015: http://www.irishstatutebook.ie/eli/2015/act/66/enacted/en/html Irish Nationality and Citizenship Act (INCA) 1956 (unofficial consolidation): http://www.inis.gov.ie/en/INIS/Irish%20Nationality%20and%20Citizenship%20Act%201956%20-%202021%20informal%20consolidation.pdf/Files/Irish%20Nationality%20and%20Citizenship%20Act%201956%20-%202021%20informal%20consolidation.pdf Immigrant Council of Ireland submission: https://immigrantcouncil.ie/sites/default/files/2018-02/IMM%202015%20Submission%20to%20Joint%20Oireachtas%20Committee%20on%20Justice%20on%20General%20Scheme%20Int'l%20Protection%20Bill.pdf |
| SDS.1.b | Training | Is there training to inform different government bodies about statelessness? If yes, please provide details (e.g. who provides training to whom/how often?) | UNHCR Executive Committee (2006) : Requests UNHCR to actively disseminate information and, where appropriate, train government counterparts on appropriate mechanisms for identifying, recording, and granting a status to stateless persons. | Yes. UNHCR assists the International Protection Office (IPO) with induction training for any new staff and panel members, which includes a session on nationality and statelessness. | See generally the role of UNHCR including provision of training to the authorities: http://www.ipso.gov.ie/en/IPO/UNHCR%20Guide%20to%20the%20International%20Protection%20Procedure%20in%20Ireland.pdf/Files/UNHCR%20Guide%20to%20the%20International%20Protection%20Procedure%20in%20Ireland.pdf |
| SDS.1.c | | Is there training for judges and lawyers on statelessness? If yes, please provide details (e.g. provider, frequency). | UNHCR (2016) : Officials who may be in contact with stateless persons need to be trained to identify potential applicants for stateless status and refer them to appropriate channels. UNHCR (2010) : It is recommended that States provide specialised training on nationality laws and practices, international standards and statelessness to officials responsible for making statelessness determinations. | There is no mandatory training that judges or lawyers must attend. Training has been offered by UNHCR/Immigrant Council of Ireland/ENS on an ad hoc basis in recent years - either as part of dedicated statelessness training or incorporated into other continuing professional development modules as part of training related to migration and citizenship law in Ireland delivered by the Immigrant Council of Ireland, including through the Law Society of Ireland. Details of the UNHCR online e-learning course have also been disseminated but there is no information on whether judges or lawyers from Ireland have participated. The lack of mandatory training was noted as an issue of concern in the joint submission of the ICI, ENS and ISI to the Human Rights Council at the 25th Session of the Universal Periodic Review, 2015. | In 2014, ICI delivered ENS training. ICI, ENS, ISI Joint Submission available at: https://www.statelessness.eu/sites/www.statelessness.eu/files/attachments/resources/IrelandUPR2015.pdf |
| SDS.1.d | Existence of a dedicated SDP | Which of the following best describes the situation in your country? Choose only one and then proceed to question indicated. 1. There is a dedicated statelessness determination procedure (SDP) established in law, administrative guidance, or judicial procedure, leading to a dedicated stateless status (proceed to Question 2a). 2. There is no dedicated SDP leading to a dedicated stateless status, but there are other procedures in which statelessness can be identified (e.g. partial SDPs with no | UNHCR (2014) : It is implicit in the 1954 Convention that States must identify stateless persons to provide them appropriate treatment to comply with their Convention commitments. UNHCR (2016) : Establishing a statelessness determination procedure is the most efficient means for States Parties to identify beneficiaries of the Convention. | #2: There is no dedicated SDP leading to a dedicated stateless status, but there are other procedures in which statelessness can be identified. | |

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| | | <p>status/rights attached, residence permit or naturalisation applications, refugee status determination, ad hoc procedures, etc.), or other routes through which stateless people could regularise their stay and/or access their rights (proceed to Question 10a).</p> <p>3. There is a dedicated stateless status but no formal procedure for determining this (proceed to Question 16a).</p> | | | |
| SDS.10.a | Procedures in which statelessness can be identified and other routes to regularisation (Group 2) | <p>If there is no dedicated SDP leading to a stateless status, are there any procedures in which statelessness can be identified (e.g. partial SDPs with no status/rights attached, residence permit or naturalisation applications, refugee status determination, ad hoc procedures, etc.)? If yes, please state the relevant procedures and then proceed to question 11a. If no, proceed to question 10b.</p> | <p>ENS (2013): For SDPs to be effective, the determination must be a specific objective of the mechanism in question, though not necessarily the only one.</p> <p>Hoti v. Croatia ECtHR (2018): [the State has a] positive obligation to provide an effective and accessible procedure or a combination of procedures enabling the applicant to have the issues of [their] further stay and status determined.</p> | <p>There is no centralised body and there is no dedicated procedure.</p> <p>In the context of international protection, statelessness may be examined at first instance by the International Protection Office or, on appeal, by the International Protection Appeals Tribunal.</p> <p>In the context of other migration related or citizenship applications, the issue of statelessness may be examined by the relevant unit of the Irish Naturalisation and Immigration Service of the Department of Justice and Equality.</p> <p>In accordance with information written by the INIS, Department of Justice in correspondence relating to individual applicants, the State position is that there is no obligation to have a statelessness determination procedure but to the extent that it is accepted statelessness may need to be considered, this is done on an ad hoc basis having regard to the specific case under consideration.</p> <p>There is no published information by the State authority regarding how to make a claim of statelessness or how to address issues related to statelessness when making an immigration related residence or citizenship application despite the fact that it is a basic requirement to provide evidence of identity, including a passport, in support of an application and at the time of registration/being issued a residence card. While such requirements may be waived in practice, there is no published guidance regarding when this will be done or the nature of submissions/evidentiary requirements, if any, to be provided by applicants.</p> <p>Although the INIS website notes that stateless persons may be eligible to apply for Irish citizenship and there is a fee waiver in such cases, no further information is provided.</p> <p>All immigration related applications in Ireland are administrative. Some, but not all, have application forms that must be used. Generally, all applications require cover letters setting out more fully the relevant issues, including documentary evidence deficits, such as evidence of identity, etc. Typically, any issues related to statelessness need to be addressed by way of written submission.</p> <p>Only applications for international protection at first instance or on appeal have the possibility for oral hearing/submissions.</p> <p>For non-protection related applications, all submissions are in English. International protection application forms may be in a different language and then translated.</p> | <p>Private correspondence in individual client correspondence with the country expert.</p> <p>See the INIS website and general guidance provided in relation to various different administrative residence and citizenship applications: http://www.inis.gov.ie/</p> <p>Naturalisation applications: https://www.irishimmigration.ie/citizenship/become-an-irish-citizen-by-naturalisation/</p> <p>See the INIS website and general guidance provided in relation to various administrative residence and citizenship applications: http://www.inis.gov.ie/</p> <p>Naturalisation applications: https://www.irishimmigration.ie/citizenship/become-an-irish-citizen-by-naturalisation/</p> |

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| <p>SDS.11.a</p> | <p>Access to procedures (Group 2)</p> | <p>Please provide details on how statelessness may be identified in other procedures.</p> | <p>UNHCR (2016): 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> | <p>As set out above at 10.a. there is no published information by the State authority regarding how to make a claim of statelessness or how to address issues related to statelessness when making an immigration related residence or citizenship application (or in dealing with another State body - such as when applying for a public service card, driving licence, public benefit, Irish passport following grant of Irish citizenship, etc.) despite the fact that it is a basic requirement to provide evidence of identity, including a passport, in support of migration related or other applications and at the time of registration/being issued a residence card. While such requirements may be waived in practice, there is no published guidance regarding when this will be done or the nature of submissions/evidentiary requirements, if any, to be provided by applicant.</p> <p>Although the INIS website notes that stateless persons may be eligible to apply for Irish citizenship and there is a fee waiver in such cases, no further information is provided.</p> | <p>See the INIS website and general guidance provided in relation to various different administrative residence and citizenship applications: http://www.inis.gov.ie/</p> <p>Naturalisation applications: https://www.irishimmigration.ie/citizenship/become-an-irish-citizen-by-naturalisation/</p> |
| <p>SDS.11.b</p> | | <p>Are there obligations in law on authorities to consider a claim of statelessness made within another procedure?</p> | <p>UNHCR (2016): Access to the procedure must be guaranteed.</p> | <p>No, other than a general public law requirement for a State authority to reasonably consider relevant information that is submitted in dealing with any application.</p> <p>The Minister is under an obligation to have regard to an applicant's private and family life when considering an application for residence permission under the Immigration Acts 1999-2004, and must specifically consider any representations made by or on behalf of an applicant against whom a proposal to deport has been issued.</p> | <p>See generally: European Convention on Human Rights Act 2003: http://www.irishstatutebook.ie/eli/2003/act/20/enacted/en/print#sec3</p> <p>Section 3(6) Immigration Act 1999 (as amended): http://www.irishstatutebook.ie/eli/1999/act/22/enacted/en/html</p> <p>Irish Supreme Court judgment in <i>Luximon & Ors v Minister for Justice</i> of 24th April 2018: https://beta.courts.ie/acc/alfresco/8a2e522b-f438-4344-963a-7247640c9911/2018_IESC_24_1.pdf/pdf#view=fitH</p> |
| <p>SDS.11.c</p> | | <p>Are there clear, accessible instructions for stateless people on how to claim their rights under the 1954 Convention and/or be identified as stateless?</p> | <p>UNHCR (2014): For procedures to be fair and efficient, access must be ensured (dissemination of info, targeted info campaigns, counselling on the procedures, etc.). UNHCR (2016): Information on the procedure and counselling services must be available to potential applicants in a language they understand. UN Convention Relating to the Status of Stateless Persons, 1954</p> | <p>No. As set out above at 10.a., there is no published information by the State authority regarding how to make a claim of statelessness or how to address issues related to statelessness when making an immigration related residence or citizenship application despite the fact that it is a basic requirement to provide evidence of identity, including a passport, in support of an application and at the time of registration/being issued a residence card. While such requirements may be waived in practice, there is no published guidance regarding when this will be done or the nature of submissions/evidentiary requirements, if any, to be provided by applicants.</p> <p>Although the INIS website notes that stateless persons may be eligible to apply for Irish citizenship and there is a fee waiver in such cases, no further information is provided. Further, some applicants have applied for naturalisation stating nationality as 'stateless'. The Minister for Justice has ultimately accepted the application for processing and waived requirement to provide evidence of identity but refused to grant the stateless fee waiver on grounds that the applicant could not provide a stateless declaration, which the Minister for Justice refused to issue.</p> <p>Other than for protection related applications, generally all information/guidance published in respect of immigration related applications is in English only.</p> <p>Other than for protection related applications, in practice there is also no civil legal aid available to assist migrants with immigration related applications.</p> | <p>Country expert knowledge from dealing with cases.</p> <p>See also the INIS website and general guidance provided in relation to various different administrative residence and citizenship applications: http://www.inis.gov.ie/</p> <p>Naturalisation applications: https://www.irishimmigration.ie/citizenship/become-an-irish-citizen-by-naturalisation/</p> <p>Country expert knowledge from dealing with cases.</p> |

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| SDS.11.d | | Is the examination and/or identification of statelessness conducted by a centralised body with relevant expertise? Please note the competent authority and evaluate appropriateness to national context. | UNHCR (2014) : States may choose between a centralised procedure or one that is conducted by local authorities. Centralised procedures are preferable as they are more likely to develop the necessary expertise. UNHCR (2016) : It is important that examiners develop expertise while ensuring that the procedures are accessible. | There is no centralised body and there is no dedicated procedure. In the context of international protection, statelessness may be examined at first instance by the International Protection Office or, on appeal, by the International Protection Appeals Tribunal. In the context of other migration related or citizenship applications, the issue of statelessness may be examined by the relevant unit of the Irish Naturalisation and Immigration Service of the Department of Justice and Equality. | As above. |
| SDS.11.e | | Is there cooperation between agencies that may have contact with stateless people? | UNHCR (2016) : Cooperation between actors working on statelessness and the various government agencies involved in determining statelessness is good practice. | There is no public information in this regard confirming whether cooperation is routinely or proactively sought by the Minister for Justice (with responsibility for granting residence permission) and other agencies (State, UNHCR, etc.). UNHCR may on an ad hoc basis refer a person for legal support in seeking to address issues related to statelessness in general immigration procedures. | Country expert own experience. |
| SDS.12.a | Assessment (Group2) | Who has the burden of proof when determining or identifying statelessness (in law and practice)? | UNHCR (2014) : The burden of proof is in principle shared (both applicant and examiner must cooperate to obtain evidence and establish the facts). UNHCR (2016) : SDPs must take into consideration the difficulties inherent in proving statelessness. UNHCR Expert Meeting (2010) : Individuals must cooperate to establish relevant facts. The burden should shift to the State if an individual can demonstrate they are not a national, on the basis of reasonably available evidence. Hoti v. Croatia ECtHR (2018) : State has responsibility to at least share the burden of proof with the applicant when establishing the fact of statelessness. | There is no public information in this regard. In principle, in line with UNHCR guidance, there is a mutually shared burden. In practice, applicants must effectively prove (repeatedly) that they are unable to obtain nationality or identity documents from a national authority. Eventually when evidence that significant efforts have been made, including non-responsiveness of other national authorities to engage, the INIS/Department of Justice and Equality may waive a requirement to produce evidence of identity. It is unclear what actions, if any, the State authority takes to obtain evidence and establish facts themselves. Occasionally, there may be some evidence that the State authority has made enquiries - this is usually when seeking to enforce a deportation order and remove the individual and the State authority engages with consular officials to establish whether the person is recognised as a citizen of that country. Occasionally, even if consular officials state that a person is not recognised as a citizen of that country, the State authority still does not accept the position immediately. Further, the State authority may require an individual to make efforts to establish identity by way of a national passport without assessing the reasonableness of that request having regard to particular facts, such as significant periods of absence from the country of birth, availability of other identity documents and/or long history of time spent in State authority care where no efforts were made to resolve identity issues. | No official source - country expert own experience. UNHCR Handbook on the Protection of Stateless Persons, 2014 |
| SDS.12.b | | What is the standard of proof to evidence statelessness? | UNHCR (2014) : States are advised to adopt the same standard of proof as in refugee status determination ('reasonable degree'). Inter-Parliamentary Union (2018) The standard of proof should be in keeping with the humanitarian objectives of statelessness status determination and the inherent difficulties of proving statelessness in the likely absence of documentary evidence. Hoti v. Croatia ECtHR (2018) : If statelessness is a relevant factor in the context of access to human rights, the standard of proof when determining the status of statelessness cannot be too high. | See 12.a. | No official source. |
| SDS.12.c | | Is there clear guidance for decision makers on how to identify or determine statelessness (including e.g. sources of evidence and procedures for evidence gathering, etc.)? | ENS (2013) : Determining authorities can benefit from concrete guidance that sets clear benchmarks and pathways for the establishment of material facts and circumstances. | There is no publicly available information in this regard. | |

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| SDS.13.a | Procedural safeguards (Group 2) | Is free legal aid available to stateless people? | UNHCR (2014) : Applicants should have access to legal counsel; where free legal assistance is available, it should be offered to applicants without financial means. ENS (2013) : If state funded legal aid is available, it should be provided to stateless claimants. If there is no state funded legal aid but asylum claimants can access free legal aid free of charge, the same level of access should be provided to stateless people. | In theory, unless explicitly excluded under the Civil Legal Aid Act 1991, legal aid is available. However, in practice, civil legal aid is only available in international protection applications. | Civil Legal Aid: https://www.legalaidboard.ie/en/lawyers-and-experts/legal-professionals-in-civil-cases/international-protection/ |
| SDS.13.b | | Do stateless people always have an opportunity to claim their statelessness in an interview (whether the purpose of the interview is to identify statelessness or not?) | UNHCR (2014) : The right to an individual interview [is] essential. | No. An interview or oral submissions is only available in international protection applications. All other immigration related residence or citizenship applications are dealt with by way of administrative applications in writing only. Not all applications have applications form and are addressed simply by letter and/or written submissions. | |
| SDS.13.c | | Is free interpreting available to stateless people? | UNHCR (2014) : The right to assistance with interpretation/translation [is] essential. ENS (2013) : Assistance should be available for translation and interpretation. | Only in the context of international protection applications. The right to be provided with an interpreter is not set out in primary legislation but is provided in practice. | See generally the information published by the International Protection Office on the application procedure and provision of interpreters during application stages, including when seeking legal assistance: http://www.ipa.gov.ie/en/IPO/InfoBookletNew.pdf/Files/InfoBookletNew.pdf See also the Administrative Practice Note of the International Protection Appeals Tribunal: http://www.protectionappeals.ie/web/site/rat/ratweb.nsf/page/SXCL-BB9PYL1944815-en/\$File/IPAT%20Administrative%20Practice%20Note%20Web.pdf |
| SDS.13.d | | Are decisions (refusals and grants) given in writing with reasons? | UNHCR (2014) : States are encouraged to incorporate the safeguard that decisions are made in writing with reasons. | In general, it is a public law requirement that reasons should be provided in writing for any decisions taken by the State authority, especially for refusals. In practice, stateless persons may be granted a residence application and the normal requirements to provide evidence of identity are waived for the registration process and issuing of the residence card. However, the decision letter will generally not state that it is accepted that the applicant is a stateless person, the correspondence may further state the nationality to be a particular nationality which the person has asserted they are not, the residence card issued may state that nationality also. Further, although the requirement to produce evidence of identity is waived in practice, the residence permission letter does not set this out and may actually set out a requirement to produce it, even though it is not actually required. Rather arrangements are made 'behind the scenes' by the decision maker with the registration office. Consequently, even though it may have implicitly been accepted that the applicant cannot produce evidence of identity and is stateless, this is not confirmed in writing and this gives rise to ongoing difficulties for the individual following the grant of residence in trying to deal with other State bodies that may require evidence of identity to deal with, for example, issuing public service cards, social benefits, driving licences, etc. | Irish Supreme Court judgment Mallak v Minister for Justice [2012] IESC 59: https://emn.ie/case_law/mallak-v-minister-for-justice-equality-and-law-reform/ Experience of national country expert providing legal assistance to clients. |
| SDS.14.a | Protection (Group 2) | Are there any rights granted to stateless people on the basis of their statelessness? If yes, please provide details. | UNHCR (2014) : The status granted to a stateless person in a State Party must reflect 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. | For stateless persons who are granted international protection, Part 8 of the International Protection Act 2015 sets out the rights that are conferred on protection status holders. These rights granted are akin to those of citizens, with the exception of the right to vote. The rights include: to seek and enter employment; to engage in any business, trade or profession; to have access to education and training; to receive medical care and social welfare benefits; rights of travel in or to or from the State; permission to reside in the State for a specified period of not less than 3 years | Part 8 International Protection Act 2015: http://www.irishstatutebook.ie/eli/2015/act/66/enacted/en/print |

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| | | | | <p>(renewable); to be issued a travel document and family reunification with immediate family members (spouse/partner and minor unmarried biological children).</p> <p>Refugees and stateless persons may apply for Irish citizenship after 3 years, although citizenship is granted on a discretionary basis.</p> <p>However, for stateless persons who are granted residence in Ireland outside of international protection, the terms and conditions of the grant of residence are provided for on an administrative basis by the Minister for Justice and are not provided for by legislation, unless the grant of residence relates to the EU Citizenship Directive. Usually, the grant of residence does not explicitly recognise the individual as a stateless person. Generally, residence permission is granted by letter in writing and usually will provide that the individual is permitted to reside in Ireland for a minimum period of 12 months (renewable on fulfilment of conditions) and access to the labour market. The grant of residence permission does not explicitly set out that the individual is permitted to access social security, but a permit holder granted Stamp 4 residence will usually be deemed to satisfy habitual residence conditions (i.e., the holder may access state funds and services as determined by Government departments or agencies). See comments above at 13.d. re. general requirements to produce evidence of identity at time of registration. Legal residents are permitted to vote in local elections.</p> <p>However, a stateless person granted residence on a discretionary basis will generally not be deemed eligible to access financial support for further education.</p> <p>There is no statutory entitlement to apply for family reunification but applications for discretionary visas may be made, which the Minister for Justice will consider having regard to general policy criteria, including humanitarian considerations.</p> <p>In practice, it is difficult for non-EEA nationals to obtain visas for family members.</p> <p>For non-protection related residence permit holders who are not issued a stateless declaration, an application for Irish citizenship may only be made after 5 years reckonable residence permission and is granted at the absolute discretion of the Minister for Justice.</p> <p>See further below SDS.14.b.</p> | <p>Sections 15 and 16 INCA 1956 (as amended): http://www.inis.gov.ie/en/INIS/Irish%20Nationality%20and%20Citizenship%20Act%201956%20-%202011%20informal%20consolidation.pdf/Files/Irish%20Nationality%20and%20Citizenship%20Act%201956%20-%202011%20informal%20consolidation.pdf</p> <p>Knowledge of country expert dealing directly with residence permit applications.</p> <p>See: INIS Information on Immigration Permission, Stamps and Conditions: http://www.inis.gov.ie/en/INIS/Pages/registration-stamps#stamp4</p> <p>See general information on voting rights of non-EU legal residents, including asylum seekers: https://www.citizensinformation.ie/en/government_in_ireland/elections_and_referenda/voting/right_to_vote.html#l3cc3e</p> <p>See Student Grant Applications and Legislation: https://susi.ie/resources/ See also Student Support Eligibility Criteria: https://susi.ie/eligibility/</p> <p>See generally INIS Policy Document on Non-EEA Family Reunification: http://www.inis.gov.ie/en/INIS/Family%20Reunification%20Policy%20Document.pdf/Files/Family%20Reunification%20Policy%20Document.pdf</p> <p>Country expert own knowledge of dealing with cases.</p> <p>Section 15 INCA 1956 (as amended): http://www.inis.gov.ie/en/INIS/Irish%20Nationality%20and%20Citizenship%20Act%201956%20-%202011%20informal%20consolidation.pdf/Files/Irish%20Nationality%20and%20Citizenship%20Act%201956%20-%202011%20informal%20consolidation.pdf</p> |
| SDS.14.b | | Are stateless people otherwise able to access their rights under the 1954 Convention? (e.g. right to reside, travel document, work, healthcare, social security, education, housing, family reunification, right to vote, etc.)? Please provide details. | <p>UN Convention Relating to the Status of Stateless Persons, 1954 UNHCR (2014): The status granted to a stateless person in a State Party must reflect international standards. It is recommended that States grant recognised stateless people a residence permit valid for at least two years, although longer permits, such as five years, are preferable in the interests of stability. Permits should be renewable.</p> | <p>See SDS.14.a. regarding stateless persons who are granted residence permits outside of the international protection process.</p> <p>Unless the stateless person is granted international protection, there is no entitlement to be granted an Irish travel document, but one may be granted on a discretionary basis. There is an application fee of 80 EUR. Processing times for such applications are lengthy and, at a very minimum, take 16 weeks.</p> | <p>See INIS Information on Travel Document Applications: http://www.inis.gov.ie/en/inis/pages/application_for_a_travel_document</p> |
| SDS.15.a | Access to nationality (Group 2) | In what timeframe do stateless people acquire the right to apply for naturalisation and how does this compare to others with a foreign nationality? Please describe the procedure and note whether this is facilitated for stateless people (e.g. exemption from nationality/language tests, fee waiver). | <p>UN Convention Relating to the Status of Stateless Persons, 1954: Article 32 UNHCR (2016): It is recommended that States Parties facilitate, as far as possible, the naturalisation of stateless persons. Council of Europe Committee of Ministers (1999): Each State should facilitate the acquisition of its nationality by stateless persons lawfully and habitually resident on its territory. ENS (2013): The main benchmark is if there is any preferential treatment for stateless people compared to the</p> | <p>In general, applications for Irish nationality by naturalisation may be made by foreign nationals on completion of a five year 'reckonable residence' period (lawful residence excluding residence as an international student or time spent in the asylum procedure (unless granted refugee status)).</p> <p>In respect of refugees and stateless persons, the required residence period is reduced, and applications may be made after 3 years, although nationality is granted on a discretionary basis.</p> | <p>See generally INCA Act 1956 Act (as amended) and, in particular, sections 15 and 16: http://www.inis.gov.ie/en/INIS/Irish%20Nationality%20and%20Citizenship%20Act%201956%20-%202011%20informal%20consolidation.pdf/Files/Irish%20Nationality%20and%20Citizenship%20Act%201956%20-%202011%20informal%20consolidation.pdf</p> <p>For documentary proofs of residence, see information published by the INIS: https://www.irishimmigration.ie/citize</p> |

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| | | | <p>general rules applied to those with a foreign nationality.</p> | <p>Documentary proofs of residence may include: bank statements showing direct debits for wages, utility bills, wages payslips, employment details, rental agreements or other proofs of home ownership, revenue documentation, utility bills, evidence of enrolment of school children, letters from sports/social clubs, evidence of GP registration, etc.</p> <p>For a stateless person who has not been granted refugee status, they will not be able to avail of the reduced 3 year period unless they are able to provide the Minister for Justice with a stateless declaration, which the same Minister for Justice will refuse to issue during any application process. Although 2 persons are known to have been issued with stateless declarations in 2014 (see UNHCR Scoping Paper), the Minister for Justice and Equality, in reply to a Parliamentary Question in June 2014 has stated that there are “no immediate plans to introduce a formal determination procedure” in Ireland, as it is “necessary to avoid a situation where Ireland, as a small country, could become a destination for stateless persons seeking access to a determination process” and has also verbally confirmed that no further statelessness declarations will be issued.</p> <p>All applicants must pay the initial application fee of 175 EUR. Refugees and stateless persons (if recognised as such) are not required to pay the further 950 EUR if granted.</p> <p>The Minister for Justice has granted Irish nationality to some individuals who have asserted they are stateless and the INIS has waived the requirement to provide evidence of identity during the application process. However, the fee waiver for stateless persons was not applied, as the applicant could not produce a stateless determination certificate, which the Minister for Justice refuses to issue to stateless person.</p> <p>There are no English or other language tests for any applicants for Irish citizenship.</p> <p>Regardless of the category of applicant, all applications for Irish nationality by naturalisation are granted at the absolute discretion of the Minister.</p> | <p>nship/become-an-irish-citizen-by-naturalisation/</p> <p>See: https://www.oireachtas.ie/en/debates/debate/dail/2014-06-12/</p> <p>See information re. INIS citizenship fees: https://www.irishimmigration.ie/citizenship/become-an-irish-citizen-by-naturalisation/#fees</p> <p>Country expert own knowledge based on dealing with applications.</p> |
| <p>SDS.15.b</p> | | <p>Are there requirements relating to ‘good character’ or previous criminal convictions that could prevent some stateless people from accessing nationality? If yes, please describe.</p> | <p>Council of Europe Committee of Ministers (1999): States should ensure that offences, when relevant for the decision concerning the acquisition of nationality, do not unreasonably prevent stateless persons seeking the nationality of a state.</p> | <p>Yes, in order to be eligible to apply, there is a statutory requirement for all applicants for Irish nationality to be of 'good character'. However, there is no further published guidance as to how this requirement is interpreted and applied by the Minister for Justice. After applying, a comprehensive background/police check is undertaken. Applicants are frequently refused for minor offences, including minor road traffic matters. There is no right of appeal. This issue has been the subject of some litigation before the superior courts challenging decisions of the Minister to refuse applications on this basis, including most recently the Irish Court of Appeal in <i>M.N.N. v Minister for Justice</i> (13th July 2020).</p> | <p>Section 15(1)(b) INCA 1956 (as amended) and section 8 Immigration Act 2003.</p> <p>Judgment available at: https://beta.courts.ie/acc/alfresco/2711753c-2505-42df-958d-ec9387d9bf2d/2020_IECA_187%20(Unapproved).pdf/pdf#view=fitH</p> |

Detention

| Item | Subtheme | Question | International Norms & Good Practice | Answer | Source |
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| DET.1.a | Detention screening | Are immigration detention powers provided for in law? Please provide the legal source(s). | <p>ICCPR Article 9(1) ECHR Article 5 (1)</p> | <p>Yes. Various provisions of domestic statutory law (as well as various subsequent amendments and/or secondary regulations made thereunder) allow for immigration related detention in a number of situations, including:</p> <ul style="list-style-type: none"> - detention following refusal of permission to enter the state and during removal from the State - detention pending deportation from the State - detention of protection applicants. <p>Whilst immigration related detention is permissible by law and does occur, it should be noted that there is no systemic practice of routinely detaining applicants for international protection and there is a general prohibition in respect of the detention of minors.</p> <p>Criticisms of Ireland's detention for immigration purposes primarily focus on Irish prison infrastructure and the lack of dedicated immigration detention facilities.</p> <p>It is reported that in 2019 there were 477 detainees related to immigration. Nationality breakdown is not provided.</p> <p>It is further reported that a total of 7,455 people were refused entry to Ireland in 2019, including 50 people recorded as stateless.</p> | <p>The main statutory provisions are: Section 5 Immigration Act 1999: http://www.inis.gov.ie/en/INIS/Immigration_Act_1999_amended.pdf/Files/Immigration_Act_1999_amended.pdf</p> <p>Section 5 Immigration Act 2003: http://www.irishstatutebook.ie/eli/2003/act/26/enacted/en/print.html</p> <p>Section 7 Immigration Act 2004 http://www.irishstatutebook.ie/eli/2004/act/1/enacted/en/print.html</p> <p>Sections 20 and 68 International Protection Act 2015: http://www.irishstatutebook.ie/eli/2015/act/66/enacted/en/print.html</p> <p>Regulation 19, European Communities (Reception Conditions) Regulations 2018: http://www.irishstatutebook.ie/eli/2018/si/230/made/en/print</p> <p>For a comprehensive overview see the two leading civil society reports on immigration related detention: Kelly, M. Immigration Related Detention (ICCL, ICI & IPRT, 2005): https://www.iprt.ie/site/assets/files/5942/immigrationrelated_detention_report.pdf</p> <p>Immigration Detention and Border Control in Ireland (Nasc, 2018): https://nascireland.org/sites/default/files/Nasc-Immigration-Detention-Border-Control-in-Ireland.pdf</p> <p>Irish Prison Service Annual Report 2019: https://www.irishprisons.ie/wp-content/uploads/documents_pdf/IPS-Annual-Report-2019-Web.pdf</p> <p>See: https://www.thedetail.tv/articles/significant-increase-in-people-refused-entry-to-republic-of-ireland-in-2019-deeply-concerning</p> |
| DET.1.b | | Does domestic law allow immigration detention for purposes other than those listed under ECHR 5(1)(f)? | ECHR Article 5(1)(f) | No. | See DET.1.a. |
| DET.1.c | | Does a proposed country of removal need to be identified before a person is detained for removal? Please describe the situation in law and in practice. | <p>ICCPR Article 7: Repeated attempts to expel a person to a country that refuses to admit them could amount to inhuman or degrading treatment. Aquad v Bulgaria ECtHR (2011): The only issue is whether the authorities were sufficiently diligent in their efforts to deport the applicant. EU Returns Directive: Any detention shall only be maintained as long as removal arrangements are in progress and executed with due diligence.</p> | <p>No. Immigration legislation provides that a foreign national who is the subject of a removal order may be removed to:</p> <ul style="list-style-type: none"> - to the state where he or she last embarked (whether by land, sea or air), if known - to the state of the person's original embarkation - to the state which issued the passport or travel document held by the person, if any - to the country of nationality of the person, so far as it appears to the immigration officer or the member of the Garda Síochána concerned, or - to any country to which the person is guaranteed entry. <p>Note also the Supreme Court of Ireland judgment in <i>Sibiya v. Minister for Justice</i> (Unreported, 7 February 2006) where it was held that there is no requirement for the country to which the person is to be deported to be named in the deportation order.</p> | <p>Section 5(5) Immigration Act 2003: http://www.irishstatutebook.ie/eli/2003/act/26/section/5/enacted/en/html#sec5</p> <p><i>Sibiya v. Minister for Justice</i> See also Unreported Supreme Court of Ireland judgment of 7 February 2006. There is no available link to judgment but it is referenced in Stanley, J. Immigration and Citizenship Law (Thomson Reuters Ireland, 2017) at pp. 319-320.</p> |
| DET.1.d | | Is statelessness juridically relevant in decisions to detain? Please describe how (risk | <p>Aquad v Bulgaria ECtHR (2011) Mikolenko v. Estonia ECtHR (2009): Detention may only be justified as long</p> | It is possible for any person who is the subject of detention to make an application for international protection at any stage, if they wish to do so and, if statelessness is raised in | International Protection Act 2015: http://www.irishstatutebook.ie/eli/2015/act/66/enacted/en/print.html |

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| | | of) statelessness is identified and whether referral to an SDP is possible from detention. | as deportation proceedings are being conducted with due diligence. UNHCR (2014) : Routine detention of individuals seeking protection on the grounds of statelessness is arbitrary. Equal Rights Trust (2012) : States must identify stateless persons within their territory or subject to their jurisdiction as a first step towards ensuring the protection of their human rights. International Commission of Jurists (2014) : The detention of stateless persons can never be justified when there is no active or realistic progress towards transfer to another State. | the course of that application, it should be examined by State authority in the course of assessing the protection claim. However, as there is no SDP, there is no possibility of referring to a formal SDP in detention, which is especially relevant in the context of persons who do not make a protection application. In practice, issues related to statelessness may occasionally be examined in the District Court if a person is charged with immigration related offences, such as failure to provide evidence of identity/produce a passport and a court may strike out the charges. Individuals who have been issued with a deportation order are required to comply with reporting requirements, cooperate with efforts to establish their identity and to make arrangements to leave the State. If they fail to cooperate, they may be arrested and detained pending deportation. Occasionally, individuals identify that they have complied with reporting requirements but have nonetheless been detained. During the period of detention, they have cooperated with requests to meet with consular officials to establish their identity and have subsequently been released from detention as it was not possible to establish identity. | Country expert own experience of dealing with cases. Section 5 Immigration Act 1999 (as amended): http://www.irishstatutebook.ie/eli/1999/act/22/enacted/en/html |
| DET.1.e | | Are stateless people detained in practice? | | There is no published data relating to the numbers of detained stateless persons. However, having regard to the available data and the overall relatively low numbers of international protection applicants in general, as well as the lack of systematic detention of protection applicants, etc. stateless persons are not routinely detained as a matter of practice. Generally, deprivation of liberty for immigration-related reasons in Ireland has been described as 'the exception, rather than the rule'. | See generally: Civil society reports on immigration related detention: Kelly, M. Immigration Related Detention (ICCL, ICI & IPRT, 2005): https://www.iprt.ie/site/assets/files/5942/immigrationrelated_detention_report.pdf Immigration Detention and Border Control in Ireland (Nasc, 2018): https://nascireland.org/sites/default/files/Nasc-Immigration-Detention-Border-Control-in-Ireland.pdf |
| DET.1.f | | Does law (and/or policy) provide that immigration detention should be used only as a last resort, after all alternatives have been exhausted in each individual case? | UNHCR (2014) : Detention is a measure of last resort and can only be justified where other less invasive or coercive measures have been considered and found insufficient. EU Returns Directive : Article 15(1) | No. | |
| DET.1.g | | Are individual vulnerability assessments carried out before a decision to detain (or soon after)? Please note whether statelessness is considered to be a factor increasing vulnerability. | ENS (2015) : Arbitrary and disproportionately lengthy detention can ensue when the particular vulnerabilities of stateless people are not addressed. EU Returns Directive : Article 16(3) EU Returns Handbook (2017) : Attention should be paid to the specific situation of stateless persons. Council of the European Union (2013) : European entities should assess the situation of LGBTI persons in detention. | Ireland does not participate in the EU Returns Directive. Ireland enacted the Reception Condition Regulations in June 2018 to give effect to the Recast Reception Conditions Directive. The Reception Conditions Regulations adopted in 2018 include a specific definition of vulnerable persons (which does not refer to stateless persons) and there is also reference to vulnerable groups in detention. Section 19(9) stipulates that when a vulnerable applicant is held in detention, "the Minister shall ensure, taking into account the person's particular situation, including his or her health, that: (a) the person is monitored regularly, and (b) he or she is provided with adequate support". The Regulations provide that the Minister for Justice and Equality shall, within 30 days of an application, whether an applicant has special reception needs and, if so, the nature of those needs. However, in practice, to date the Department of Justice and Equality has not introduced a specific procedure which either assesses whether an individual is a vulnerable applicant or provides for needs arising from that vulnerability. | European Communities (Reception Conditions) Regulations 2018, S.I. No. 230 of 2018: http://www.irishstatutebook.ie/eli/2018/si/230/made/en/print See the AIDA Country Report, pp 46 referred to above in relation to this issue and the expressed view of the Irish Refugee Council, https://www.asylumineurope.org/site/default/files/report-download/aida_ie_2019update.pdf |

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| | | | | <p>In practice, it would appear that such assessments are not carried out in any systematic manner and it is still not clear where responsibility for such assessments lie. As it stands, while the Regulations prescribe the Minister for Justice, the Minister for Health and the Health Service Executive as responsible for conducting vulnerability assessments in the reception context, in practice it is not clear which authority has responsibility. Civil society organisations supporting protection applicants in their in-depth evaluation of the government’s progress reports have highlighted that government commitments to develop ‘Vulnerability Assessments’ have not been progressed at all, with requests for information from key agencies yielding ‘no evidence of the development of a formal system of referral’ for vulnerable applicants. In the experience of the Irish Refugee Council, as of January 2020, there is no assessment – as envisaged in the Regulations – being carried out.</p> <p>Civil society organisations have raised concerns regarding the (lack of) identification of vulnerable individuals, in particular identifying special reception needs at the beginning of the asylum procedure.</p> <p>The IPO does not collate or publish disaggregated statistics on the number of protection applicants belonging to vulnerable groups, nor has there been a commitment or concrete plan to date to establish a formal vulnerability identification mechanism in the context of the asylum procedures.</p> | <p>Nasc, Working Paper on the Progress of Implementation of the McMahon Report, December 2017, available at: https://bit.ly/3dm40FF, 27.</p> <p>Irish Refugee Council, ‘Refugee organisations highlight absence of vulnerability assessment in Irish asylum procedure’, available at: https://bit.ly/3gTluLB.</p> <p>See: UN Committee against Torture, Concluding observations on the second periodic report of Ireland, 11 August 2017, available at: http://bit.ly/2hPIVem, para. 12(b) to that effect.</p> |
| DET.2.a | Alternatives to detention | Are alternatives to detention established in law and considered prior to any decision to detain? | <p>ICCPR Article 9 FKAG v Australia HRC (2013): Any decision relating to detention must consider less invasive means of achieving the same ends. UN General Assembly (2009): Calls upon all States to adopt alternative measures to detention. UNHCR (2014): Detention can only be justified where other less invasive or coercive measures have been considered and found insufficient. Human Rights Council (2012) : The obligation to always consider alternatives before resorting to detention should be established by law. EU Returns Directive: Article 15(1) Equal Rights Trust (2012): States have an obligation to consider and apply appropriate and viable alternatives to immigration detention that are less coercive and intrusive. International Detention Coalition (2015) : 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.</p> | <p>Immigration related detention is generally not mandatory in Ireland. Statutory provisions are framed in 'may' not 'shall' terms.</p> <p>There is no publicly available information regarding any consideration that immigration officers may give to consideration of alternatives prior to any decision to detain.</p> | <p>Section 5 Immigration Act 1999: http://www.inis.gov.ie/en/INIS/Immigration_Act_1999_amended.pdf/Files/Immigration_Act_1999_amended.pdf</p> <p>Section 5 Immigration Act 2003: http://www.irishstatutebook.ie/eli/2003/act/26/enacted/en/print.html</p> <p>Section 7 Immigration Act 2004 : http://www.irishstatutebook.ie/eli/2004/act/1/enacted/en/print.htm</p> <p>Sections 20 and 68 International Protection Act 2015: http://www.irishstatutebook.ie/eli/2015/act/66/enacted/en/print.html</p> <p>Regulation 19, European Communities (Reception Conditions) Regulations 2018: http://www.irishstatutebook.ie/eli/2018/si/230/made/en/print</p> |
| DET.2.b | | Is there evidence that immigration detention is used in practice prior to all alternatives being considered? | As above. | There is no published information available in this regard. | |
| DET.3.a | Procedural safeguards | Is there a maximum time period for immigration detention set in law? What is it? | <p>UN Human Rights Council (2010) : A maximum period of detention must be established by law and upon expiry the detainee must be automatically released. UNHCR (2012) : To guard against arbitrariness, maximum periods of detention should be set in national law. EU Returns Directive: Article 15(5) Equal Rights Trust (2012) : Detention should always be for the shortest time possible.</p> | <p>This depends on the nature of the detention and the statutory basis for same.</p> <p>In the context of refusal of permission to land/enter and removal, detained persons may not be detained for a period exceeding 8 weeks in aggregate.</p> <p>However, under the 2003 Act, various periods of time are excluded in calculating that 8 week period, including if the person has instituted court proceedings challenging the validity of his or her proposed removal from the State, any period spent by the person in a</p> | <p>Section 5(3) Immigration Act 2003: http://www.irishstatutebook.ie/eli/2003/act/26/section/5/enacted/en/html#sec5</p> <p>Section 5(3)(b)(iii) Immigration Act 2003: http://www.irishstatutebook.ie/eli/2003/act/26/section/5/enacted/en/html#sec5</p> |

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| | | | | <p>place of any period of time in detention between the date of the institution of the proceedings and the date of their final determination including, where notice of appeal is given, the period between the giving thereof and the final determination of the appeal or any further appeal therefrom or the withdrawal of the appeal or, as appropriate, the expiry of the ordinary time for instituting any such appeal.</p> <p>In the context of international protection, there is provision for a broader detention power, which does not contain a maximum time limit. It is simply required that the detention be reviewed and re-authorised by the District Court every 21 days. While this power of detention is not a general immigration detention power but more limited to protection applicants, it could apply to stateless persons e.g. section 20(1)(c) provides for detention on the basis that the applicant "(c) has not made reasonable efforts to establish his or her identity,".</p> <p>Furthermore, there is an 8-week period for removal-related immigration detention in section 5 of the 1999 Act (as amended by section 78 of the 2015 Act) which also has an 8-week maximum, but in certain circumstances this can be extended with the authorisation of the District Court.</p> | <p>Section 20 International Protection Act, 2015: http://www.irishstatutebook.ie/eli/2015/act/66/enacted/en/html</p> <p>Section 5 of the Immigration Act 1999 (as amended): http://www.irishstatutebook.ie/eli/2015/act/66/enacted/en/html</p> |
| DET.3.b | Does law/policy provide that individuals must be informed in writing of the reasons for their immigration detention? | <p>UN General Assembly (1988) : Anyone who is arrested shall be informed at the time of the reason for his arrest.</p> <p>EU Returns Directive: Detention shall be ordered in writing with reasons being given in fact and in law.</p> <p>Equal Rights Trust (2012) : Stateless detainees shall receive their order of detention in writing and in a language they understand.</p> <p>International Commission of Jurists (2014): The authorities shall ensure that sufficient information is available to detained persons in a language they understand on the nature of their detention and reasons for it.</p> | <p>If a person is refused entry to the State, they are entitled to be provided with the reasons for that decision in writing.</p> <p>Similarly, if the Minister proposes to deport a foreign national, the Minister must provide notice of the proposal and the reasons for it in writing.</p> <p>The legislation does not expressly set out that reasons for immigration detention must be provided. In practice a detention warrant is issued, which is also notice of the reasons for refusal.</p> | <p>Section 4(4), Immigration Act 2004: http://www.irishstatutebook.ie/eli/2004/act/1/section/4/enacted/en/html#sec4</p> <p>Section 3(3) Immigration Act 1999: http://www.irishstatutebook.ie/eli/1999/act/22/enacted/en/html</p> | |
| DET.3.c | Are detainees provided with information on their rights, contact details of legal advice and support providers, and guidance on how to access an SDP? | <p>Equal Rights Trust (2012) : Detaining authorities are urged to provide stateless detainees with a handbook in a language and terms they understand, containing information on all their rights and entitlements, contact details of organisations which are mandated to protect them, NGOs and visiting groups and advice on how to challenge the legality of their detention and their treatment as detainees.</p> | <p>No. This is consistently one of the primary sources of criticism regarding immigration related detention in Ireland.</p> | <p>See: Global Detention Project: Ireland: https://www.globaldetentionproject.org/countries/europe/ireland</p> <p>See also civil society reports:</p> <p>Kelly, M. Immigration Related Detention (ICCL, ICI & IPRT, 2005): https://www.iprt.ie/site/assets/files/5942/immigrationrelated_detention_report.pdf</p> <p>Immigration Detention and Border Control in Ireland (Nasc, 2018): https://nascireland.org/sites/default/files/Nasc-Immigration-Detention-Border-Control-in-Ireland.pdf</p> | |
| DET.3.d | Are there regular periodic reviews of detention before a court or independent body, which can order release? | <p>Kim v Russia ECtHR (2014) : The purpose of Article 5(4) ECHR is to guarantee to persons who are detained the right to judicial supervision of the lawfulness of the measure.</p> <p>Equal Rights Trust (ERT) (2012) : 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> | <p>This depends on the nature of the detention and the specific legislative provisions. All detainees are not brought before a court. See DET.3.a.</p> <p>In context of detained protection applicant, there is a requirement to review the detention every 21 days.</p> | <p>Section 20 International Protection Act 2015: http://www.irishstatutebook.ie/eli/2015/act/66/enacted/en/html</p> | |

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| DET.3.e | | <p>What remedies are available to challenge detention? Please mention any obstacles to accessing effective remedies in practice.</p> | <p>ICCPR Article 9(4) ECHR: Article 5(4) Kim v Russia ECtHR (2014) : The purpose of Article 5(4) ECHR is to guarantee to persons who are detained the right to judicial supervision of the lawfulness of the measure. Alimuradov v. Russia ECtHR (2019): The individual must have at their disposal a procedure for judicial review of the lawfulness of detention capable of leading to release.</p> | <p>A detained person may challenge detention by way of Habeus Corpus proceedings.</p> <p>There is no right of appeal against a decision to refuse entry and/or issue a removal order or deportation order. A person who wishes to challenge such a decision can, however, apply for judicial review in the High Court to challenge the lawfulness of that decision. It is not per se a challenge to the detention itself.</p> <p>However, where a person is detained following a decision to refuse entry to the State and institutes court proceedings challenging the validity of his or her proposed removal from the State, the court hearing those proceedings or any appeal therefrom may, on application to it, determine whether the person shall continue to be detained or shall be released, and may make any such release subject to such conditions as it considers appropriate, including:</p> <ul style="list-style-type: none"> - that the person reside at a particular place in the State - that they report to a police station or immigration officer at regular intervals. <p>There are two key obstacles to accessing effective remedies, including:</p> <ul style="list-style-type: none"> - the lack of access to independent appeals procedures - the lack of access to civil legal aid and/or legal advice if refused entry to the State and are in detention. See further discussion regarding immigration related detention and access to civil legal aid at DET.3.g below. | <p>Article 40.4 of the Irish Constitution.</p> <p>Section 5(4) Immigration Act 2004: http://www.irishstatutebook.ie/eli/2004/act/1/enacted/en/html</p> |
| DET.3.f | | <p>Are there guidelines in place governing the process of re-documentation and ascertaining entitlement to nationality for the purpose of removal?</p> | <p>Equal Rights Trust (2012) : The inability of a stateless person to cooperate with removal proceedings should not be treated as non-cooperation. ENS (2015) : The detaining state should have rules in place that govern the process of re-documentation and/or ascertaining entitlement to nationality.</p> | <p>No. There are no published guidelines in this regard. In individual cases it is apparent that the State authority may have contacted consular officials to make enquiries regarding identity/nationality, etc. but there is no documented procedure. An individual may make a subject access request under FOI to try to ascertain what efforts the State authority has engaged in, but this may not yield any particular results.</p> | <p>Country expert experience dealing with individual cases.</p> |
| DET.3.g | | <p>Is free legal aid available to challenge detention? Please describe any barriers to accessing legal aid in practice.</p> | <p>UNHCR (2014): 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: Article 13(3)</p> | <p>Civil legal aid is not generally available. Legal aid is not administered by detention facilities. This is consistently one of the primary sources of criticism regarding immigration related detention in Ireland.</p> <p>Civil legal aid is administered by the Civil Legal Aid Board in accordance with the provisions of the Civil Legal Aid Act 1995 and secondary regulations, the Civil Legal Aid Regulations 1996 – 2017. Civil legal aid is not free and any qualifying applicant must pay a contribution depending on their gross income and capital.</p> <p>There is no statutory restriction against the provision of legal aid in return cases – in principle any civil law matter is eligible unless specifically excluded by the Act, subject to the applicant fulfilling a financial ‘means’ test and merits test in respect of the matter for which legal assistance is sought. There is no information available relating to refusals to grant legal aid in context of international protection generally or, more specifically, returns cases.</p> <p>In respect of international protection and returns decisions, the scope of legal aid extends to provision of pre-questionnaire and pre-interview advice and submissions, representation at Dublin III appeals and appeals against first instance decisions to refuse international protection.</p> <p>In non-international protection applications, in practice legal aid is generally not applied for by persons refused leave to land and subject to removal at a port of entry. Individuals may apply for and be granted legal aid to make submissions to the Minister</p> | <p>See: Global Detention Project: Ireland: https://www.globaldetentionproject.org/countries/europe/ireland</p> <p>See also civil society reports:</p> <p>Kelly, M. Immigration Related Detention (ICCL, ICI & IPRT, 2005): https://www.iprt.ie/site/assets/files/5942/immigrationrelated_detention_report.pdf</p> <p>Immigration Detention and Border Control in Ireland (Nasc, 2018): https://nascireland.org/sites/default/files/Nasc-Immigration-Detention-Border-Control-in-Ireland.pdf</p> <p>Email correspondence with Legal Aid Board. See also Legal Aid Board information regarding International Protection private practitioner scheme and Claim Form for Fees (CF1) by panel members: https://www.legalaidboard.ie/en/lawyers-and-experts/legal-professionals-in-civil-cases/international-protection/</p> <p>See also Information Note for Applicants: https://www.legalaidboard.ie/en/our-services/legal-aid-services/services-for-international-protection-</p> |

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| | | | | <p>following the issuing of a deportation proposal or if applying to revoke a deportation order. There is no information available regarding how many such applications may have been made.</p> <p>In all cases, legal aid is not provided in judicial review proceedings and solicitors must advise clients to obtain immediate private legal representation to pursue this option.</p> <p>There is no information available from relevant detention facilities in Ireland and relevant disaggregated information is not comprehensively available from the Legal Aid Board. Annual immigration statistics in 2018 confirm that a total of 4797 persons were refused permission to enter (leave to land) but some of those persons may have subsequently applied for international protection. A total of 1186 deportation orders were issued in 2018. A total of 163 deportation orders were effected, including against 4 minors who formed part of a family group. However, there is no information provided regarding how many persons were detained and/or were in receipt of legal aid.</p> | <p>applicants/services/general-information/legal-services.html</p> <p>See Legal Aid Board Best Practice Guidelines regarding Deportation: https://www.legalaidboard.ie/en/lawyers-and-experts/legal-professionals-in-civil-cases/international-protection/best-practice-guidelines/introduction.html</p> <p>See Department of Justice and Equality, Immigration in Ireland: Annual Review 2018: http://www.inis.gov.ie/en/INIS/Immigration-in-Ireland-Annual-Review-2018.pdf/Files/Immigration-in-Ireland-Annual-Review-2018.pdf</p> |
| DET.4.a | Protections on release | Are people released from detention issued with identification documents (including confirmation of their stateless status) and protected from re-detention? | <p>UN Convention Relating to the Status of Stateless Persons, 1954: Article 27 UNHCR (2014) : Being undocumented cannot be used as a general justification for detention.</p> <p>ENS (2015) : State parties to the 1954 Convention have an obligation to provide stay rights to stateless people who have been released from detention.</p> <p>Equal Rights Trust (2012): Released stateless detainees should be provided with appropriate documentation and stay rights suitable to their situation.</p> | No. Persons released from detention are not issued with identification documents unless they have applied for international protection and are issued with a temporary residence certificate or, following an application, if they have been issued with a Travel Document. If they apply for another form of residence permission, they will receive written acknowledgement of that but will not receive a residence card until the application is approved. This can, depending on the nature of the application made, take a while (usually +12 months). There is no express protection against re-detention but in practice it is not an issue that arises regularly. | Section 17 International Protection Act 2015: http://www.irishstatutebook.ie/eli/2015/act/66/enacted/en/print#sec17 |
| DET.4.b | | If the purpose of detention cannot be fulfilled and the person is released, what legal status and rights are provided to them in law? | <p>Saïd Shamilovich Kadzoev v Direktsia Migratsia' pri Ministerstvo na vatreshnite raboti ECJ (2009): After the maximum period of detention has expired, the person must be released immediately. A lack of valid documentation or inability to support themselves should not be a deterrent to release.</p> <p>Equal Rights Trust (2012): Released stateless detainees should be provided with appropriate documentation and stay rights suitable to their situation.</p> | <p>There are no specific rights provided for. It will depend on the situation and whether the individual has submitted an application for international protection, whether they have applied for residence and/or whether there is a deportation order in force.</p> <p>If the applicant has applied for international protection, they are entitled to the protections afforded by the Reception Conditions Regulations.</p> <p>Generally, a person who has submitted an application for a non-protection residence permit is not entitled to access social benefits pending a decision, although they may be granted some supports on a discretionary basis by a community welfare officer.</p> <p>A deportation order will remain in force until such time as the Minister for Justice determines an application to revoke the deportation order and, similar to above, a person may be provided some supports on a discretionary basis.</p> | <p>European Communities (Reception Conditions) Regulations 2018, S.I. No. 230 of 2018: http://www.irishstatutebook.ie/eli/2018/si/230/made/en/print</p> <p>Exceptional needs payments: https://www.citizensinformation.ie/en/social_welfare/social_welfare_payments/supplementary_welfare_schemes/exceptional_needs_payments.html</p> |
| DET.4.c | | If re-detention occurs, is the cumulative time spent in detention counted towards any maximum time limits? | Equal Rights Trust (2012) : 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. | Cumulative time spent in detention may be counted towards the maximum time limit (as long as the person has not left the State). Any extension beyond 8 weeks must be approved by a District Court judge, but this is subject to one important caveat - this only applies to the detention power contained in Section 5 of the Immigration Act 1999 (as amended) and not to other statutory powers of immigration detention, e.g., Section 20 of the International Protection Act 2015. | Section 5 Immigration Act 1999 (as amended): http://www.irishstatutebook.ie/eli/2015/act/66/enacted/en/html |
| DET.5.a | Return and readmission agreements | Is statelessness considered a juridically relevant fact in any bilateral readmission and/or return agreements? | UNHCR (2014) : Efforts to secure admission or readmission may be justified but these need to take place subsequent to a determination of statelessness. | Ireland has no formal bilateral readmission agreements with any third countries other than an agreement with Nigeria, which is not yet formally ratified by the Nigerian authorities. | See: Quinn, E. Strategies Used to Support Return Policy in Ireland National Policy and Practice on Entry Bans and Ireland's Use of Readmission Agreements Strategies Used to Support Return Policy in Ireland National Policy and Practice on Entry Bans and Ireland's Use of Readmission |

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| | | | | | Agreements (EMN, 2015) https://emn.ie/files/p_201507210418562015 IE%20strategies%20to%20support%20return%20online.pdf |
| DET.5.b | | Are you aware of cases of cases of stateless people being returned under such agreements? | | No. | |

Prevention and Reduction

| Item | Subtheme | Question | International Norms & Good Practice | Answer | Source |
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| PRS.1.a | Stateless born on territory | Is there a provision in law for stateless children born on the territory to be granted nationality? [If yes, continue to PRS1b. If no, proceed to PRS1h] | UN Convention on the Reduction of Statelessness, 1961 : Article 1 European Convention on Nationality, 1997 : Article 2 Convention on the Rights of the Child 1989 : Article 7 Committee on the Rights of Migrant Workers and Members of their Families & Committee on the Rights of the Child (2017) : States should strengthen measures to grant nationality to children born in their territory in situations where they would otherwise be stateless. European Parliament (2018) : The EU and its MS should ensure that childhood statelessness is adequately addressed in national laws in full compliance with Article 7 CRC. | Yes. Section 6(3) of the Irish Nationality and Citizenship Act 1956 (as amended) provides that "A person born in the island of Ireland is an Irish citizen from birth if he or she is not entitled to citizenship of any other country." | Available at: http://www.inis.gov.ie/en/INIS/Irish%20Nationality%20and%20Citizenship%20Act%201956%20-%202011%20informal%20consolidation.pdf/Files/Irish%20Nationality%20and%20Citizenship%20Act%201956%20-%202011%20informal%20consolidation.pdf |
| PRS.1.b | | Is the provision for otherwise stateless children to acquire nationality automatic or non-automatic (i.e. by application)? | UNHCR (2012) : The 1961 Convention provides Contracting States with two alternatives for granting nationality to otherwise stateless children born in their territory: either automatic acquisition upon birth or upon application. ENS (2015) : The 1961 Convention and the ECN oblige the conferral of nationality to otherwise stateless children born on the territory. The optimal method is to grant nationality automatically at birth. | This is not clear. There is no published guidance regarding the statutory provisions and how a child would access the entitlement. Unlike other citizenship applications related to foreign birth or naturalisation, etc. there is no specific application form to be used in this particular situation. The legislation provides that any person who claims to be an Irish citizen may apply to the Minister for Justice for a certificate of nationality stating that the applicant is, at the date of the certificate, an Irish citizen; and the Minister, if satisfied that (a) the applicant is an Irish citizen, and (b) the issue of the certificate is necessary in all the circumstances of the case, may issue a certificate of nationality to him accordingly. There is no published information on how many applications for certificates of nationality have been made and whether any such applications related to stateless children. At least one case has been reported of a stateless child born in Ireland who was issued a certificate of nationality under section 28 of the Irish Nationality and Citizenship Act 1956. A child that is otherwise entitled to Irish nationality at birth would generally just make an application for an Irish passport and provide documentary evidence to support the birth right entitlement. There is no reference to stateless children in the Passports Act 2008 or in guidance on applying for a passport. | Section 28 Irish Nationality and Citizenship Act 1956 (as amended): http://www.inis.gov.ie/en/INIS/Irish%20Nationality%20and%20Citizenship%20Act%201956%20-%202011%20informal%20consolidation.pdf/Files/Irish%20Nationality%20and%20Citizenship%20Act%201956%20-%202011%20informal%20consolidation.pdf Berkeley solicitors, 'Stateless child born in Ireland granted a certificate of nationality', 28 August 2020: https://berkeleysolicitors.ie/stateless-child-born-in-ireland-granted-a-certificate-of-nationality/ Passports Act 2008: http://www.irishstatutebook.ie/eli/2008/act/4/enacted/en/print.html |
| PRS.1.c | | Is it a requirement that the parents are also stateless for the otherwise stateless child to acquire nationality? | UNHCR (2012) : The test is not an inquiry into whether a child's parents are stateless. ENS (2015) : Only allowing access to nationality for stateless children whose parents are stateless fails to account for the circumstance where the parents hold a nationality but are unable to pass this on. | No. | Section 6(3) of the INCA 1956 (as amended): http://www.inis.gov.ie/en/INIS/Irish%20Nationality%20and%20Citizenship%20Act%201956%20-%202011%20informal%20consolidation.pdf/Files/Irish%20Nationality%20and%20Citizenship%20Act%201956%20-%202011%20informal%20consolidation.pdf |
| PRS.1.d | | Are stateless children required to prove they cannot access another nationality to acquire the nationality of the country of birth? If yes, please describe how this is determined in practice. | UNHCR (2012) : A Contracting State 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. The burden of proof must be shared between the claimant and the authorities. Decision-makers must consider Articles 3 & 7 CRC and adopt an appropriate standard of proof. Special procedural considerations to address the acute challenges faced by children in communicating basic facts about their nationality should be respected. | There is no available published information or guidance regarding State practice in this regard. It is considered likely that any application on this basis would be considerably scrutinised and that a child (or parent/guardian acting on their behalf) would have to provide evidence that efforts had been made to acquire nationality of their parents' country of nationality/birth/habitual residence and/or were not entitled to nationality of their parents' country of nationality/birth/habitual residence. | Country expert practice. |

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| PRS.1.e | | Is a stateless child born on the territory required to fulfil a period of residence to be granted nationality? If yes, please specify length and if this must be legal residence. | UN Convention on the Reduction of Statelessness, 1961 : Article 1(2) UNHCR (2012) : States may stipulate that an otherwise stateless individual born in its territory fulfils a period of 'habitual residence' (understood as stable, factual residence, not legal or formal residence) not exceeding five years preceding an application nor ten years in all. Convention on the Rights of the Child, 1989 : Articles 3 & 7 Committee on the Rights of the Child (2015) : Recommends the State party ensure that all stateless children born in its territory, irrespective of residency status, have access to nationality without any conditions. European Convention on Nationality, 1997 : Article 6(2)(b) | No. In addition to the provisions of section 6(3) which provide for an entitlement to Irish nationality for a child born in Ireland that would otherwise be stateless, in the absence of any successful 'application' on this basis, it would also be possible for an application for Irish nationality by naturalisation to be submitted on their behalf after five years 'reckonable residence' in Ireland. Residence permission for children is derived through their parents and certain periods of time are not deemed reckonable including time spent in Ireland without a formal residence permission, time spent as an international student or as an asylum seeker. Applications are granted on a discretionary basis. | Section 15(1)(a)(ii) Irish Nationality and Citizenship Act: http://www.inis.gov.ie/en/INIS/Irish%20Nationality%20and%20Citizenship%20Act%201956%20-%202011%20informal%20consolidation.pdf/Files/Irish%20Nationality%20and%20Citizenship%20Act%201956%20-%202011%20informal%20consolidation.pdf |
| PRS.1.f | | Are the parents of a stateless child required to fulfil a period of residence for the child to be granted nationality? If yes, please specify length and if this must be legal residence. | Committee on the Rights of the Child (2011) : The outcome of an application 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. ENS (2015) : Demanding that the child or their parents reside lawfully on the territory is prohibited by the 1961 Convention. | No. However, see PRS.1.e above. | |
| PRS.1.g | | What are the age limits (if any) for making an application for nationality for a stateless person born on the territory? | UN Convention on the Reduction of Statelessness, 1961 : Article 1(2) UNHCR (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. ENS (2015) : Closing the window of opportunity to apply for a nationality has the effect of leaving it in the hands of parents to take the necessary steps to secure a nationality for their child. | No age limits are prescribed by the legislation. | Section 6(3) INCA 1956 (as amended): http://www.inis.gov.ie/en/INIS/Irish%20Nationality%20and%20Citizenship%20Act%201956%20-%202011%20informal%20consolidation.pdf/Files/Irish%20Nationality%20and%20Citizenship%20Act%201956%20-%202011%20informal%20consolidation.pdf |
| PRS.1.h | | Are there specific provisions to protect the right to a nationality of children born to refugees? | UNHCR (2012) : 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. | No. | |
| PRS.2.a | Foundlings | Are foundlings granted nationality automatically by law? If not automatic, please describe the procedure. | UN Convention on the Reduction of Statelessness, 1961 : Article 2 European Convention on Nationality, 1997 : Article 6(1)(b) | Yes, in theory. The legislation provides that "Every deserted newborn child first found in the State shall, unless the contrary is proved, be deemed to have been born in the island of Ireland to parents at least one of whom is an Irish citizen." However, similar to PRS.1.b. there is no published guidance regarding the statutory provisions and how a child would access the entitlement. Unlike other nationality applications related to foreign birth or naturalisation, etc. there is no specific application form to be used in this particular situation. | Section 10 INCA 1956 (as amended): http://www.inis.gov.ie/en/INIS/Irish%20Nationality%20and%20Citizenship%20Act%201956%20-%202011%20informal%20consolidation.pdf/Files/Irish%20Nationality%20and%20Citizenship%20Act%201956%20-%202011%20informal%20consolidation.pdf |
| PRS.2.b | | Is there an age limit (e.g. 'new-born' or 'infant') in law or practice specifying when a foundling would qualify for nationality? | UNHCR (2012) : At a minimum, the safeguard should apply to all young children who are not yet able to communicate information about the identity of their parents or their place of birth. | See above. The statutory provision prefers to 'newborn child' but there is no apparent time limit within which the entitlement must be asserted. | Section 10 INCA 1956 (as amended): http://www.inis.gov.ie/en/INIS/Irish%20Nationality%20and%20Citizenship%20Act%201956%20-%202011%20informal%20consolidation.pdf/Files/Irish%20Nationality%20and%20Citizenship%20Act%201956%20-%202011%20informal%20consolidation.pdf |
| PRS.2.c | | Can nationality be withdrawn from foundlings if this leads to statelessness? | UNHCR (2012) : Nationality acquired by foundlings may only be lost if it is proven that the child possesses another nationality. | There are no provisions in Irish law regarding revocation of nationality granted at birth. Revocation is only a possibility for certificates of naturalisation. | Section 19 INCA 1956 (as amended): http://www.inis.gov.ie/en/INIS/Irish%20Nationality%20and%20Citizenship%20Act%201956%20-%202011%20informal%20consolidation.pdf/Files/Irish%20Nationality%20and%20Citizenship%20Act%201956%20-%202011%20informal%20consolidation.pdf |

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| 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 acquired? | UN Convention on the Reduction of Statelessness, 1961 : Article 5 ENS (2015) : Children may be exposed to a (temporary) risk of statelessness during the adoption process due to the nationality law of the child's country of origin. | No. | |
| PRS.3.b | | Does a foreign child adopted by national parents acquire nationality? Please specify any age limits and/or risk of statelessness during the adoption process. | European Convention on Nationality, 1997 : Article 6(4)(d) Committee on the Rights of the Child (2015) : Ensure that the child is not stateless or discriminated against during the waiting period between arrival and formal adoption. | Yes. The legislation provides that upon an adoption order being made, within the meaning of section 3 (1) of the Adoption Act 2010 or an intercountry adoption effected outside the State being recognised within the meaning of that Act" in a case in which the adopter or, where the adoption is by a married couple, either spouse is an Irish citizen, the adopted child, if not already an Irish citizen, shall be an Irish citizen." There are no age limits. | Section 11 INCA 1956 (as amended): http://www.inis.gov.ie/en/INIS/Irish%20Nationality%20and%20Citizenship%20Act%201956%20-%202011%20informal%20consolidation.pdf/Files/Irish%20Nationality%20and%20Citizenship%20Act%201956%20-%202011%20informal%20consolidation.pdf |
| PRS.4.a | Ius sanguinis | Can children born to nationals abroad acquire nationality by descent (<i>ius sanguinis</i>) in general and/or if they would otherwise be stateless? | UN Convention on the Reduction of Statelessness, 1961 : Article 4 UNHCR (2012) : Where a child who would otherwise be stateless is born to parents of another Contracting State but does not acquire the nationality of the State of birth responsibility falls to the Contracting State of the parents to grant its nationality to the child. | Yes. | Section 7 INCA 1956 (as amended): http://www.inis.gov.ie/en/INIS/Irish%20Nationality%20and%20Citizenship%20Act%201956%20-%202011%20informal%20consolidation.pdf/Files/Irish%20Nationality%20and%20Citizenship%20Act%201956%20-%202011%20informal%20consolidation.pdf |
| PRS.4.b | | Are there any discriminatory conditions in law and/or practice for the acquisition of nationality by descent (e.g. differential treatment of children born out of wedlock, rights of father/mother/same-sex parents to confer nationality, etc.)? | Genovese v. Malta ECtHR (2011) : The state must ensure that the right to nationality is secured without discrimination. CEDAW Gen. rec. No. 32, 2014 : Requires States parties to ensure that women and men have equal rights to confer their nationality to their children and that any obstacles to practical implementation of such laws are removed. UNHCR (2014) : Action 4 | Although the statutory provisions are gender neutral and refer to 'parent', there are some possible risks arising in practice due to the current lack of legislation/comprehensive regulation of all forms of assisted human reproduction, including surrogacy and reciprocal IVF. This may have consequences particularly for some children, particularly of same sex couples, born outside of the State and if the Irish parent is not a birth parent. | Children and Family Relationships Act 2015: http://www.irishstatutebook.ie/eli/2015/act/9/enacted/en/html The issue has received some recent media attention: https://www.thejournal.ie/parental-rights-legislation-limbo-noteworthy-5148504-Jul2020/ See also information published by LGBT Ireland on this issue: https://lgbt.ie/important-information-on-the-children-and-family-relationships-act-cfra-2015/ |
| PRS.5.a | Birth registration | Does the law provide that all children are registered immediately upon birth regardless of the legal status and/or documentation of parents? | Convention on the Rights of the Child, 1989 : Article 7 International Covenant on Civil and Political Rights, 1966 : Article 24(2) Council of Europe (2009) : Member states should 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 the parents are unknown. UNHCR (2012) : Article 7 CRC applies irrespective of the nationality, statelessness or residence status of the parents. UNHCR (2014) : Action 7 UN Sustainable Development Goal 16.9 | Registration is a legal requirement in Ireland, and it is required to register the birth of a child no later than three months after his or her birth. | Section 19 Civil Registration Act 2004: http://www.irishstatutebook.ie/eli/2004/act/3/enacted/en/html |
| PRS.5.b | | Are all children issued with birth certificates upon registration? If no, please describe legal status of documentation issued. | UN Human Rights Council, Resolution A/HRC/RES/20/4 : Underscores the importance of effective birth registration and provision of documentary proof of birth irrespective of immigration status and that of parents or family members. Committee on the Rights of Migrant Workers and Members of their Families & Committee on the Rights of the Child (2017) : Take all necessary measures to ensure that all children are immediately registered at birth and issued birth certificates, irrespective of their migration status or that of their parents. | Following notification of the birth to the birth registration office, a birth certificate is generally issued within 2 weeks. | Country expert casework practice. |
| PRS.5.c | | Is the child's nationality determined or recorded upon birth registration? If yes, please describe how and by whom (e.g. if the mother/father's nationality is recorded and/or automatically attributed to the child, if | Convention on the Rights of the Child, 1989 : Articles 3 & 7 | No. The form to register the child's birth seeks information regarding the child's parents' nationality but does not record the child's nationality. | Birth Registration Form: file:///C:/Users/Spare/Downloads/71831_c8d6228ba2fd497dae0e0ba6274e77ff.pdf |

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| | | there's a formal procedure, if information on both parents is recorded etc.) | | | |
| PRS.5.d | | If a child's nationality is not determined or recorded upon birth registration, is there a legal framework to determine the child's nationality later? If yes, please describe the procedure, including the legal grounds, deadlines and competent authority. | Convention on the Rights of the Child, 1989 : Articles 3 & 7 UN Convention on the Reduction of Statelessness, 1961 : Articles 1 & 4 UNHCR (2012) : States need to determine whether a child would otherwise be stateless as soon as possible so as not to prolong a child's status of undetermined nationality. Such a period should not exceed five years. | For children who are entitled to Irish nationality, this is generally done by way of an application for an Irish passport, if such an application is made. There is no other State procedure for determining nationality of children. | Country expert casework practice. |
| PRS.5.e | | Are there credible reports to suggest that children are prevented from registering in practice because of parents' legal status or other reasons (please specify)? | Committee on the Rights of Migrant Workers and Members of their Families & Committee on the Rights of the Child (2017) : Urge States parties to take all necessary measures to ensure that all children are immediately registered at birth and issued birth certificates, irrespective of their migration status or that of their parents. Legal and practical obstacles to birth registration should be removed. Global Compact for Safe, Orderly and Regular Migration : States will contribute resources and expertise to strengthen the capacity of national civil registries to facilitate timely access by refugees and stateless persons to civil and birth registration. Global Compact on Refugees : States commit to fulfil the right of all individuals to a legal identity and ensure that migrants are issued documentation and civil registry documents. European Parliament Resolution (2019) : Calls on Member States to take immediate corrective measures to stop discriminatory birth registration. | No. | |
| PRS.5.f | | Are there mandatory reporting requirements that would deter undocumented parents from coming forward to register their children (e.g. health or civil registry authorities required to report undocumented migrants)? | Committee on the Rights of Migrant Workers and Members of their Families & Committee on the Rights of the Child, JGC No. 4 (2017) and JGC No. 3 (2017) : Legal and practical obstacles to birth registration should be removed, including by prohibiting data sharing between health providers or civil servants responsible for registration with immigration enforcement authorities; and not requiring parents to produce documentation regarding their migration status. Children's personal data, in particular biometric data, should only be used for child protection purposes. Council of Europe: ECRI General Policy Recommendation No. 16(2016) on safeguarding irregularly present migrants from discrimination : States should clearly prohibit the sharing of information about migrants suspected of irregular presence with immigration authorities. These firewalls must be binding on state authorities and the private sector. | No. Data sharing between public bodies is provided for and regulated by the Data Sharing and Governance Act 2019. Per section 13, a public body may disclose personal data to another public body, only where the personal data concerned is disclosed for the purpose of the performance of a function of the first or second mentioned public body, and for one or more specific purposes set out in the legislation, including to verify the identity of a person, to establish the entitlement of a person to the provision of a service being delivered and to facilitate the administration, supervision and control of a service, programme or policy delivered or implemented or being delivered or implemented. Although data sharing is permitted and may deter some undocumented persons from seeking to access some services, there is no reported evidence that it acts as a deterrent to individuals seeking to access maternity or other health services, registering the birth of children, etc. | Data Sharing and Governance Act 2019. http://www.irishstatutebook.ie/eli/2019/act/5/enacted/en/html |
| PRS.5.g | | Is there a statutory deadline for birth registration? If yes, please state the deadline and whether late birth registration is possible in law and practice. | Committee on the Rights of Migrant Workers and Members of their Families & Committee on the Rights of the Child (2017) : Measures should also be taken to facilitate late registration of birth and to avoid financial penalties for late 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. | Yes, there is a statutory requirement to register a birth within 3 months. See PRS.5.a It is also possible to register a birth late on application. The legislation provides that the Chief Registrar shall not register a birth more than 12 months after the date of birth unless the consent in writing has been obtained from the Superintendent Registrar. Enquiry submitted to the Late Registration Unit regarding the legislation/admin procedure and response awaited. | Section 19 Civil Registration Act 2004: http://www.irishstatutebook.ie/eli/2004/act/3/enacted/en/html Section 20 Civil Registration Act 2004: http://revisedacts.lawreform.ie/eli/2004/act/3/section/20/revised/en/html |

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| PRS.5.h | | Are there additional requirements for late birth registration (e.g. fees, documents, court procedure)? Please describe the procedure including the competent authority and procedural deadlines. | As above | It is also possible to register a birth late on application to the Chief Registrar. Enquiry submitted to the Late Registration Unit regarding the legislation/admin procedure and response awaited. | |
| PRS.6.a | Reduction | Does the government have any programmes in place to promote civil registration (including birth registration)? If yes, please provide details. | UNHCR (2014): Action 7 | Information regarding birth registration is readily available from the State authority, published on the Citizenship Information Service and information regarding birth registration requirements is generally provided to parents at the time of birth, if in a clinical setting. | See: https://www.citizensinformation.ie/en/birth_family_relationships/after_your_baby_is_born/registering_birth_your_baby.html Information provided to expectant parents at the Rotunda maternity hospital: https://rotunda.ie/caring-for-baby/ |
| PRS.6.b | | Are there particular sections of the population - such as minority groups or people affected by conflict - believed to be stateless/at risk of statelessness? Please provide details and source of information. | UN Convention on the Reduction of Statelessness, 1961: Article 9 UNHCR (2014): Action 4 UN Human Rights Council (2019): States should take legislative, administrative and policy measures aimed at eliminating statelessness affecting minorities. | No, most reported instances of statelessness/risk of statelessness occur among migrant/refugee populations in Ireland, including Roma, persons born in former USSR, and persons from particular communities such as Rohingya or Bidoon. | See generally: UNHCR Scoping Paper: Statelessness in Ireland, 2014: https://www.refworld.org/pdfid/5448b6344.pdf |
| PRS.6.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.) | UN Convention on the Reduction of Statelessness, 1961 UNHCR (2014): Actions 1 & 8 UNHCR (2015): States parties to the 1954 Convention are required to help stateless persons become naturalised nationals. | No. | |
| PRS.7.a | Deprivation of nationality | Are there any provisions on deprivation of nationality that could render a person stateless? Please state whether there is a safeguard against statelessness established in law and on what grounds deprivation of nationality may result in statelessness (e.g. national security, fraud, etc.). | UN Convention on the Reduction of Statelessness, 1961: Article 8 & 9 European Convention on Nationality, 1997: Article 7(3) Universal Declaration of Human Rights: Article 15(2) Principles on Deprivation of Nationality and the Draft Commentary: Principle 2.2: Deprivation of nationality refers to any loss, withdrawal or denial of nationality that was not voluntarily requested by the individual; Principles 4, 5 & 6 Report of the Secretary-General on Human Rights and Arbitrary Deprivation of Nationality (2009): para. 23 UNHCR Guidelines on Statelessness No.5 (2020): the prohibition of arbitrary deprivation of nationality also includes situations where there is no formal act by a State but where the practice of its competent authorities clearly shows that they have ceased to consider a particular individual/group as national(s) (e.g. where authorities persistently refuse to issue or renew documents without providing an explanation or justification). | Yes. Irish law provides that Irish citizenship granted by naturalisation may be revoked if the Minister for Justice and Equality is satisfied — (a) that the issue of the naturalisation certificate was procured by fraud, misrepresentation whether innocent or fraudulent, or concealment of material facts or circumstances, or (b) that the person to whom the naturalisation certificate was granted has, by any overt act, failed in their duty of fidelity to the nation and loyalty to the State, or (c) that the person to whom it is granted has been ordinarily resident outside the State (otherwise than in the public service) for a continuous period of seven years and without reasonable excuse has not during that period registered annually in the prescribed manner their name and a declaration of their intention to retain Irish citizenship with an Irish diplomatic mission or consular office or with the Minister, or (d) that the person to whom it is granted is also, under the law of a country at war with the State, a citizen of that country, or (e) that the person to whom it is granted has by any voluntary act, other than marriage or entry into a civil partnership, acquired another citizenship. Although section 19(2) provides that "Before revocation of a certificate of naturalisation the Minister shall give such notice as may be prescribed to the person to whom the certificate was granted of his intention to revoke the certificate, stating the grounds therefor and the right of that person to apply to the Minister for an inquiry as to the reasons for the revocation", there is no explicit safeguard ensuring that Irish nationality will not be revoked if the revocation would result in statelessness. | Section 19 INCA 1956 (as amended): http://www.inis.gov.ie/en/INIS/Irish%20Nationality%20and%20Citizenship%20Act%201956%20-%202011%20informal%20consolidation.pdf/Files/Irish%20Nationality%20and%20Citizenship%20Act%201956%20-%202011%20informal%20consolidation.pdf |

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| | | | | <p>In addition to the statutory provisions in relation to revocation of Irish nationality granted by naturalisation, there are also statutory provisions relating to the refusal to issue an Irish passport and/or cancellation and surrender of passports that have been issued. This may happen, for example, where the Passport Office has issued a passport in error to a child born in Ireland but who did not qualify for nationality at birth as a parent was not an Irish national and/or did not fulfil the necessary residence criteria prior to the child's birth. Although there is an appeal procedure, there is no explicit safeguard to protect against statelessness pending the conclusion of the legal process. In the High Court, Humphreys J held that where the Minister proposes cancelling a passport, fair procedures may require that advance notice of that intention is given along with an opportunity to make representations as to why the passport should not be cancelled, e.g., if the child was to be rendered stateless by the cancellation.</p> | <p>Sections 12, 18 and 19 Passports Act 2008: http://www.irishstatutebook.ie/eli/2008/act/4/enacted/en/print#sec12</p> <p>Islam v Minister for Justice [2019] IEHC 559: https://beta.courts.ie/acc/alfresco/24a5d17f-2fd5-4d67-96b8-024524c827ac/2019_IEHC_559_1.pdf/pdf#view=fitH</p> |
| PRS.7.b | Who is the competent authority for deprivation of nationality and what procedural safeguards are in place (e.g. due process, fair trial, participation in the proceedings, legal aid, judicial oversight, appeal, time limit, subject to prior sentencing)? | <p>UN Convention on the Reduction of Statelessness, 1961: Article 8(4) European Convention on Nationality, 1997: Article 11 Principles on Deprivation of Nationality: Principle 7. Deprivation of nationality must be carried out in pursuance of a legitimate purpose, provided for by law, necessary, proportionate and in accordance with procedural safeguards; Principle 8: Everyone has the right to a fair trial or hearing and to an effective remedy and reparation.</p> | <p>If a person who receives Ministerial notice regarding intended revocation of nationality wishes to apply for an Inquiry, the application for an Inquiry will be referred to a Committee of Inquiry, which is required to report its findings to the Minister. The Minister for Justice and Equality and/or INIS does not publish information regarding the Committee of Inquiry procedures. A person who has been notified of an intention to revoke nationality may request a copy of the procedures and the procedures are available under Freedom of Information.</p> <p>Until relatively recently, there were no known /published details regarding any cases where Irish nationality was revoked. Notwithstanding, the provisions regarding revocation have long been questioned as being dubious from a constitutional perspective with leading academic constitutional lawyers proffering the view that "The constitutionality of this provision seems highly questionable, partly because of the drastic nature of revocation of citizenship and the consequent question whether anyone other than a judge in a court could order it and partly because the criterion here set up is so vague that it invites an unpredictable, subjective application of a kind hostile to the concept of 'due process' or 'due course of law'."</p> <p>Since 2018, the Minister for Justice has exercised the revocation procedures in a number of cases, which remain ongoing before the Irish Superior Courts. In October 2020, the Irish Supreme Court ruled that the current revocation procedure under section 19 of the Irish Nationality and Citizenship Act 1956 is unconstitutional. The Supreme Court noted that an individual facing the prospect of revocation of a certificate of naturalisation must be entitled to a process which provides minimum procedural safeguards including an independent and impartial decision-maker (Damache v Minister for Justice [2020] ISEC 63). The Irish Human Rights and Equality Commission noted that the outcome of this case may have an effect on a large number of other cases.</p> <p>It is understood that to date, five revocations of naturalisation have taken place arising from voluntary revocation or information coming to light regarding identity, which were effectively uncontested. There have been several proposals to revoke naturalisation issued in recent years, but the determination of those cases is effectively suspended awaiting the outcome of the Damache case.</p> | <p>Section 19 (3) INCA 1956 (as amended): http://www.inis.gov.ie/en/INIS/Irish%20Nationality%20and%20Citizenship%20Act%201956%20-%20202011%20informal%20consolidation.pdf/Files/Irish%20Nationality%20and%20Citizenship%20Act%201956%20-%20202011%20informal%20consolidation.pdf</p> <p>Country expert experience.</p> <p>Hogan and Whyte in JM Kelly: The Irish Constitution (2003)</p> <p>See link Irish Times article Carolan, M. Supreme Court to decide legality of process to revoke Irish citizenship [16/06/2020]: https://www.irishtimes.com/news/crime-and-law/courts/high-court/supreme-court-to-decide-legality-of-process-to-revoke-irish-citizenship-1.4280953#:~:text=The%20Supreme%20Court%20has%20reserved%20judgment%20on%20a,who%20became%20a%20naturalised%20Irish%20citizen%20in%202008.</p> <p>The judgment of the lower courts is available at: https://beta.courts.ie/acc/alfresco/790861e8-22ef-44de-9e1b-8401147bed00/2019_IEHC_444_1.pdf/pdf#view=fitH</p> <p>Damache v Minister for Justice [2020] ISEC 63), available at https://www.courts.ie/acc/alfresco/9f6e2c6d-eb77-4c9f-ad57-fffe7ffc65f6/2020_IESC_63.pdf/pdf#view=fitH</p> | |

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| | | | | | http://www.justice.ie/en/JELR/Pages/PQ-11-12-2018-238 |
| PRS.7.c | | Are provisions on deprivation of nationality that may render a person stateless applied in practice? | | Yes, see above at PRS.7.a. and PRS.7.b. | |
| PRS.7.d | | Are there safeguards in law and practice to prevent renunciation or other forms of voluntary loss of nationality from resulting in statelessness? | UN Convention on the Reduction of Statelessness, 1961 : Article 7 European Convention on Nationality, 1997 : Articles 7 and 8 | Renunciation is provided for by law, which provides that "If an Irish citizen of full age is or is about to become a citizen of another country and for that reason desires to renounce citizenship, he or she may do so, if ordinarily resident outside the State, by lodging with the Minister a declaration of alienage in the prescribed manner, and, upon lodgement of the declaration or, if not then a citizen of that country, upon becoming such, shall cease to be an Irish citizen." While there is no explicit safeguard protecting against statelessness, the provision does envisage that there is no cessation in respect of Irish nationality until the person concerned has become a national of another country. | Section 21 INCA 1956 (as amended): https://www.irishimmigration.ie/wp-content/uploads/2019/11/Irish-Nationality-and-Citizenship-Act-1956-Reference-Version.pdf |
| PRS.7.e | | Are there any provisions on deprivation of nationality in a national security context (regardless of whether they could render a person stateless)? Please describe these provisions and if/how they are applied in practice. | Principles on Deprivation of Nationality Principle 4: States shall not deprive persons of nationality for the purpose of safeguarding national security. Where provisions exist, these should be interpreted narrowly and in accordance with international law standards. | No. | See INCA 1956 (as amended): https://www.irishimmigration.ie/wp-content/uploads/2019/11/Irish-Nationality-and-Citizenship-Act-1956-Reference-Version.pdf |
| PRS.7.f | | Are there any provisions on deprivation of nationality that directly or indirectly discriminate a person or group of persons on any ground prohibited under international law or that discriminate between nationals? Please describe these provisions and if/how they are applied in practice. | ICCPR : Article 26 UN Convention on the Reduction of Statelessness, 1961 : Article 9 European Convention on Nationality, 1997 : Article 5 Principles on Deprivation of Nationality : Principle 6. Prohibited grounds for discrimination include race, colour, sex, language, religion, political or other opinion, national or social origin, ethnicity, property, birth or inheritance, disability, sexual orientation or gender identity, or other real or perceived status, characteristic or affiliation. Each State is also bound by the principle of non-discrimination between its nationals. | No. | |

Resources

| Item | Subtheme | Question | International Norms & Good Practice | Answer | Source |
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| RES.1.a | Published judgments | Number of published judgments adjudicating statelessness (broken down by level of jurisdiction). Please list the most relevant ones. | | <p>There are no published judgments on the adjudication of statelessness.</p> <p>Decisions of the International Protection Office and International Protection Appeals Tribunal are not published.</p> <p>Decisions of the INIS in other administrative immigration related applications are by letter in writing and are not published. There is no published decision in respect of the two known cases where declarations of statelessness were issued by the INIS.</p> <p>There is no publicly available database of redacted adjudication decisions.</p> | |
| RES.1.b | | Number of published judgments mentioning statelessness (broken down by level of jurisdiction). Please list the most relevant ones. | | <p>An outline synopsis of relevant High Court judgments is contained in the UNHCR Scoping Paper 2014.</p> <p>See also more recent decision of the Court of Appeal in FF v Minister for Justice, Equality and Law Reform [2017] IECA 273. A summary of the case is available at p.81 here: https://emn.ie/files/p_20181129024054Annual%20Report%20on%20Migration%20and%20Asylum%202017_online_cover.pdf</p> <p>See also the High Court decision in BDR v Refugee Appeals Tribunal [2016] IEHC 274. A summary of the case is available at p. 65 here: https://emn.ie/files/p_20171121105707Annual%20Report%20on%20Migration%20and%20Asylum%202016_online.pdf</p> <p>See also the High Court decision in Damache v Minister for Justice [2019] IEHC 444 and the Supreme Court decision in Damache v Minister for Justice [2020] ISEC 63.</p> | <p>See pp. 21-26 of the Scoping Paper: https://www.refworld.org/pdfid/5448b6344.pdf</p> <p>FF v Minister for Justice, Equality and Law Reform [2017]: http://courts.ie/Judgments.nsf/0/CBF185AC945F1300802581D0005C6163</p> <p>BDR v Refugee Appeals Tribunal [2016] https://www.refworld.org/pdfid/5bb244524.pdf</p> <p>Damache v Minister for Justice [2019] IEHC 444: https://www.courts.ie/acc/alfresco/790861e8-22ef-44de-9e1b-8401147bed00/2019_IEHC_444_1.pdf/pdf</p> <p>Damache v Minister for Justice [2020] ISEC 63: https://www.courts.ie/acc/alfresco/9f6e2c6d-eb77-4c9f-ad57-ffe7ffc65f6/2020_IESC_63.pdf/pdf#view=fitH</p> |
| RES.3.a | Pro Bono | Are there specialised lawyers or organisations providing free advice to stateless people or those at risk of statelessness? If yes, please describe. | UNHCR (2014) : Applicants must have access to legal counsel. | Yes, but very limited. Free legal services may be provided by Independent Law Centres, the Immigrant Council of Ireland Independent Law Centre and the Irish Refugee Council Independent Law Centre. Both organisations are charitable organisations but regulated by the Law Society of Ireland as legal service providers employing solicitors. Services of Independent Law Centres must be provided free of charge to services users. Independent Law Centres do not draw down legal aid contracts for the provision of legal aid services. Except for international protection applications, civil legal aid is generally not available in practice for other immigration related cases. On civil legal aid generally, see above at DET.3.g. | <p>Immigrant Council of Ireland: https://www.immigrantcouncil.ie/home?page=1</p> <p>Irish Refugee Council: https://www.irishrefugeecouncil.ie/Listing/Category/law-centre</p> |
| RES.4.a | Literature | Is there domestic academic literature on statelessness? Please list and provide references and hyperlinks (where available). | | Apart from media articles, NGO submissions to international committees, blog posts, EMN annual reports, etc. there are limited publications regarding statelessness in Ireland. I am not aware of any academic literature. | |