

## Contents

<b>International and Regional Instruments</b> .....	3
1954 Convention.....	3
1961 Convention.....	3
Other conventions .....	4
<b>Stateless Population Data</b> .....	7
Availability and sources .....	7
Stateless in detention data .....	10
<b>Statelessness Determination and Status</b> .....	11
Definition of a stateless person .....	11
Existence of a dedicated SDP .....	11
Alternative administrative procedures through which statelessness can be identified (AAP) .....	12
Access to procedures (AAP) .....	13
Assessment (AAP) .....	16
Procedural Protections (AAP) .....	17
Stateless Status (AAP) .....	18
Other routes to regularisation .....	19
<b>Detention</b> .....	21
Detention screening.....	21
Alternatives to immigration detention .....	25
Procedural safeguards .....	27
Protections on release .....	32

## ENS Statelessness Index Survey: Norway

Readmission agreements.....	34
<b>Prevention and Reduction .....</b>	<b>35</b>
Stateless born on territory.....	35
Foundlings.....	39
Adoption .....	40
Ius sanguinis and discrimination.....	41
Access to birth registration.....	42
Late Birth Registration .....	44
Reduction .....	45
Withdrawal of nationality.....	46
<b>Jurisprudence and Training.....</b>	<b>48</b>
Published judgements.....	48
Legal training.....	48
Pro Bono.....	49
Literature .....	49

## International and Regional Instruments

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
IOB	1	a	1954 Convention	Is your country party to the 1954 Statelessness Convention?	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a></li> </ul>	YES	<a href="#">UNTC</a>
IOB	1	b		If yes, when was ratification/accession?		Ratification: 19/11/1956.	<a href="#">UNTC</a>
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 effect on the rights of stateless persons.	No reservations.	<a href="#">UNTC</a>
IOB	1	d		Does Convention have direct effect?	Best practice is that the Convention has direct effect, though this may depend on legal regime.	YES. The relationship between national and international law is sector-monistic in certain areas of law, including immigration law, citizenship law, criminal law and criminal procedure.	<a href="#">Utlendingsloven</a> (Immigration Act) § 3; <a href="#">Statsborgerloven</a> (Nationality Act) § 3; <a href="#">Straffeloven</a> (Penal Act) § 2; <a href="#">Straffeprosessloven</a> (Criminal Procedure Act) § 4.
IOB	2	a	1961 Convention	Is your country party to the 1961 Statelessness Convention?	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention on the Reduction of Statelessness, 1961</a></li> </ul>	YES	<a href="#">UNTC</a>
IOB	2	b		If yes, when was ratification/accession?		Accession: 11/08/1971.	<a href="#">UNTC</a>
IOB	2	c		Are there reservations in place? Please list them.	As above	No reservations.	<a href="#">UNTC</a>
IOB	2	d		Does Convention have direct effect?	As above	YES. The relationship between national and international law is sector-monistic in certain areas of law, including immigration law,	<a href="#">Utlendingsloven</a> (Immigration Act) § 3; <a href="#">Statsborgerloven</a> (Nationality Act) § 3; <a href="#">Straffeloven</a> (Penal Act) § 2;

						citizenship law, criminal law and criminal procedure.	<a href="#">Straffeprosessloven</a> (Criminal Procedure Act) § 4.
IOB	3	a	Other conventions	State party to European Convention on Nationality 1997? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> <li>• <a href="#">European Convention on Nationality, 1997</a></li> </ul>	YES, ratification 04/06/2009. No explicit reservation, but one interpretative declaration: “Norway declares that the age referred to in Article 22(b) is, as a general rule, considered to have been reached at the expiry of the calendar year in which the person reaches the age of 28 years. If the delay is due to an omission on his part, the age referred to in Article 22(b) is considered to have been reached at the expiry of the calendar year in which the person reaches the age of 33 years.”	<a href="#">COE Treaty Office</a>
IOB	3	b		State Party to European Convention on Human Rights 1950? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> <li>• <a href="#">European Convention on Human Rights, 1950</a></li> </ul>	YES, ratification 15/01/1952. No reservations.	<a href="#">COE Treaty Office</a>
IOB	3	c		State Party to Council of Europe Convention on the avoidance of statelessness in relation to State succession 2006? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> <li>• <a href="#">Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession, 2006</a></li> </ul>	YES, ratification 12/10/2006.	<a href="#">COE Treaty Office</a>
IOB	3	d		Bound by Directive 2008/115/EC of the European Parliament and of the Council (EU Returns Directive). Are there reservations in place? Please list them.	<ul style="list-style-type: none"> <li>• <a href="#">Directive 2008/115/EC of the European Parliament and of the Council (EU Returns Directive)</a></li> </ul>	Legally binding. No reservations.	<a href="#">Stortinget</a> (Parliament) (NO)

International and Regional Instruments – February 2019

IOB	3	e	State Party to Convention on the Rights of the Child 1989? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> <li>• <a href="#">Convention on the Rights of the Child 1989</a></li> </ul>	YES, ratification 8/1/1991. No reservations in place since 19 September 1995.	<a href="#">UNTC</a>
IOB	3	f	State Party to International Covenant on Civil and Political Rights 1966? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> <li>• <a href="#">International Covenant on Civil and Political Rights 1966</a></li> </ul>	YES, ratification 13/9/1972. Reservations in place: "Subject to reservations to article 10(2)(b) and (3) "with regard to the obligation to keep accused juvenile persons and juvenile offenders segregated from adults" and to article 14(5)&(7) and to article 20(1)." The reservation to article 14(5) was further specified on 19.09.1995.	<a href="#">UNTC</a>
IOB	3	g	State Party to International Covenant on Economic, Social and Cultural Rights 1966? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> <li>• <a href="#">International Covenant on Economic, Social and Cultural Rights 1966</a></li> </ul>	YES, ratification 13/9/1972. Reservations in place: "Subject to reservations to article 8(1)(d) "to the effect that the current Norwegian practice of referring labour conflicts to the State Wages Board (a permanent tripartite arbitral commission in matters of wages) by Act of Parliament for the particular conflict, shall not be considered incompatible with the right to strike, this right being fully recognised in Norway."	<a href="#">UNTC</a>
IOB	3	h	State Party to Convention on the Elimination of all Forms of Discrimination Against Women 1979? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> <li>• <a href="#">Convention on the Elimination of all Forms of Discrimination Against Women 1979</a></li> <li>• Gen. Rec. 32 <a href="#">on the gender-related dimensions of refugee status, asylum, nationality and statelessness.</a></li> </ul>	YES, ratification 21/5/1981. No reservations.	<a href="#">UNTC</a>
IOB	3	i	State Party to Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984? Are	<ul style="list-style-type: none"> <li>• <a href="#">Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984</a></li> </ul>	YES, ratification 9/7/1986. No reservations.	<a href="#">UNTC</a>

International and Regional Instruments – February 2019

				there reservations in place? Please list them.			
IOB	3	j		State Party to International Convention on the Elimination of All Forms of Racial Discrimination 1966? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> <li><a href="#">International Convention on the Elimination of All Forms of Racial Discrimination 1965</a></li> </ul>	YES, ratification 6/8/1970. No reservations.	<a href="#">UNTC</a>
IOB	3	k		State Party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families 1990? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> <li><a href="#">International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families 1990</a></li> </ul>	NO.	<a href="#">UNTC</a>

Stateless Population Data

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
POP	1	a	Availability and sources	Does the Govt have a discrete category for statelessness in its data collection system (e.g. in the census)? If so, what are the Govt figures for the total stateless population on the territory? Is the data disaggregated? If so, how?	<ul style="list-style-type: none"> <li>• <a href="#">Gen. Rec. 32 of CEDAW</a> (para. 39): States parties should... gather, analyse and make available sex-disaggregated statistical data and trends...</li> <li>• <a href="#">European Council, Conclusions of the Council and the Representatives of the Governments of the Member States on Statelessness</a>: Recognise the importance of exchanging good practices...concerning the collection of reliable data on stateless persons...</li> <li>• <a href="#">UNHCR Global Action Plan to End Statelessness 2014-2024 (Action 10)</a>: Improve quantitative and qualitative data on stateless populations...</li> <li>• <a href="#">Institute on Statelessness and Inclusion (The World's Stateless) pg.11</a>: States should adopt and/or strengthen measures to count stateless persons on their territory...</li> </ul>	YES, in 2016 the number of stateless persons according to the Norwegian statistics bureau was <b>2,425</b> . The data is disaggregated by the following categories: naturalised stateless persons, stateless persons born in Norway, stateless immigrants, stateless emigrants, stateless asylum seekers.	<a href="#">Norwegian statistics bureau</a>  <a href="#">Norwegian statistics bureau</a>
POP	1	b		Do Govt authorities define categories of persons who may overlap with stateless (e.g. unknown nationality, unspecified nationality, other)? Are statistics on these available? If, yes, please indicate categories and statistics.	As above	YES, the category of “unknown nationality” has reportedly been used by the Norwegian Directorate of Immigration.	<a href="#">UNHCR’s 2015 Mapping Study</a> , p. 19.

Stateless Population Data – February 2019

POP	1	c		What is the UNHCR estimate for the population of stateless persons and/or those at risk of statelessness on the territory? What is UNHCR's source for this information?	As above	Total number of persons under UNHCR's statelessness mandate was <b>3,251</b> at the end of 2016. UNHCR compiles statistics on statelessness in Norway from data received from Norwegian statistics bureau and the Norwegian Directorate of Immigration.	<a href="#">UNHCR's 2016 Statistical Yearbook</a> , p. 44.
POP	1	d		Are there indirect (proxy) sources of statistics on stateless persons? E.g. categories of persons for which statistics are available where stateless persons may be more highly represented (e.g. relevant country of origin or profiles (e.g. Palestinians or Syrian Kurds)? Please provide explanation and figures.	As above	No	
POP	1	e		Have there been surveys or mapping studies done to estimate the population of stateless persons in the country?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR Global Action Plan to End Statelessness 2014-2024: Action 10</a></li> </ul>	YES.	<a href="#">Norwegian statistics bureau</a> <a href="#">Norwegian statistics bureau</a>  <a href="#">UNHCR's 2015 Mapping Study</a> , pp. 16-25.
POP	1	f		Are there other sources of estimates for the population of stateless persons (not covered by the above)? If so, list sources and figures.	As above	No	
POP	1	g		Are there issues with reliability of stateless data? If yes, please describe why.	As above	YES. There are three main issues. First, there is no definition of statelessness in the Norwegian domestic legislation, as discussed further below. Second, Norway lacks a	

Stateless Population Data – February 2019

						dedicated statelessness determination procedure. As noted in UNHCR’s 2015 Mapping Study (p. 16): “The institutional capacity to produce statistics related to statelessness is somewhat limited. Also, issues relating to registration processes present challenges.” Thirdly, as noted by the Norwegian statistics bureau, “The number of stateless persons among those living in Norway without a residence permit, such as those without documentation, is unknown.”	<a href="#">UNHCR’s 2015 Mapping Study</a> , p. 16  <a href="#">Norwegian statistics bureau</a>
POP	1	h		Are there indications that the stateless population is either over or under reported? Please describe.	As above	Since the Norwegian statistics bureau is unable to estimate the number of stateless persons living in Norway without a residence permit, the total stateless population is probably underreported.	<a href="#">Norwegian statistics bureau</a>
POP	1	i		Please provide any available figures on stateless refugees or asylum seekers (if there is data, please clarify whether Govt also counts stateless refugees and asylum seekers in the stateless population to avoid under/over reporting).	As above	The Norwegian Directorate of Immigration (UDI) publishes detailed statistics on the number of asylum applicants as well as persons granted protection every year – both disaggregated by nationality, including the category of those registered as stateless. In 2018 (January – September), there were 67 applicants for protection registered as stateless. Of these, 30 were granted asylum. In 2015, 88% of all asylum applications from stateless persons considered on the merits (not including Dublin and safe third country cases) were successful. As noted above, the Norwegian statistics bureau provides disaggregated statistics on the stateless population in Norway. The number indicating the total stateless population living in Norway (2,425 persons at the beginning of 2016) does not include persons without a residence permit. However, a separate number of all stateless applicants for asylum is recorded for	<a href="#">UDI statistics</a>  <a href="#">Norwegian statistics bureau</a> <a href="#">Norwegian statistics bureau</a>

Stateless Population Data – February 2019

						every year (1,130 stateless applicants in 2015).	
POP	2	a	Stateless in detention data	Number of stateless persons in immigration detention	As above and see also norms in Detention section.	Some detention statistics are published, but they are not disaggregated by nationality of the detainees. The data records not the number of people but the number of "insettelse" ('detentions'). The same person could have been detained several times during the same year. So, the total number may be higher than the actual number of detainees. NOAS has submitted complaints to the authorities regarding the poor quality of detention statistics.	Annual Report of the Supervisory Council for Trandum, 2017, Table on p.3: <a href="https://www.regjeringen.no/contentassets/e19229021ca74bee9f678d1b52b70f4b/arsrapport_trandum_2017.pdf">https://www.regjeringen.no/contentassets/e19229021ca74bee9f678d1b52b70f4b/arsrapport_trandum_2017.pdf</a> (NO) (Kvinne=woman; Mann=man; Barn=children (accompanied & unaccompanied))
POP	2	b		Are there statistics on individuals released from immigration detention who were unremovable, their country of origin and length of detention? If yes, please provide.	As above	2753 of the 3183 detentions (not detainees) in 2017 were deported.	Annual Report of the Supervisory Council for Trandum, 2017, Table on p.3: <a href="https://www.regjeringen.no/contentassets/e19229021ca74bee9f678d1b52b70f4b/arsrapport_trandum_2017.pdf">https://www.regjeringen.no/contentassets/e19229021ca74bee9f678d1b52b70f4b/arsrapport_trandum_2017.pdf</a> (NO) (Kvinne=woman; Mann=man; Barn=children (accompanied & unaccompanied))

## Statelessness Determination and Status

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
IDP	1	a	Definition of a stateless person	Is there a definition of a stateless person in national law? Do the definition and exclusion provisions align with the 1954 Convention? Please provide details.	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a>: Article 1(1) and 1(2).</li> </ul>	<p>There is no definition of a stateless person in Norwegian domestic legislation, neither in the Nationality Act nor in the Immigration Act. Preparatory works to recent legislative proposals referred to the 1954 Convention definition. Section 16 of the Nationality Act excludes a stateless person from facilitated naturalisation after 3 years of lawful residence (instead of 7 years), “who by his or her own act or omission has chosen to be stateless, or who in a simple way can become a national of another country”.</p>	<p><a href="#">Utlendingsloven</a> (Immigration Act); <a href="#">Statsborgerloven</a> (Nationality Act) (NO).</p> <p><a href="#">Innst. 391 L – 2015–2016</a>, p. 89, under «Endring i statsborgerloven § 16 som ikke har vært på høring». (NO)</p> <p>See also: <a href="#">NOU 2015: 4</a>, p. 40, under section 5.9.3. (NO)</p>
IDP	1	b	Existence of a dedicated SDP	<p>Which of the following best describes the situation in your country? <b>Choose only one and then proceed to question indicated.</b></p> <p><b>1.</b> There is a dedicated statelessness determination procedure (SDP) established in law, administrative guidance, or judicial procedure (<b>proceed to Question 2a</b>).</p> <p><b>2.</b> There is no dedicated SDP but there are other administrative procedures through</p>	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: ... it is implicit in the 1954 Convention that States must identify stateless persons within their jurisdictions so as to provide them appropriate treatment in order to comply with their Convention commitments.</li> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: Establishing a statelessness determination procedure is the most efficient means for States Parties to the 1954 Convention to identify the beneficiaries of that Convention.</li> </ul>	<p># 2 - There is no dedicated SDP but there are other administrative procedures through which statelessness can be identified.</p>	

Identification and Protection – February 2019

				<p>which statelessness can be identified (e.g. citizenship, residence permit, refugee status determination, ad hoc procedures) <b>(proceed to Question 10a).</b></p> <p><b>3.</b> There is a dedicated stateless status even if no formal procedure exists for determining this <b>(proceed to Question 15a).</b></p> <p><b>4.</b> None of the above apply. Are there other possibilities by which stateless persons can regularise their stay without their statelessness being determined <b>(proceed to Question 16a)?</b></p>			
IDP	10	a	<p>Alternative administrative procedures through which statelessness can be identified (AAP)</p>	<p><b>If there is no dedicated SDP in your country,</b> are there other administrative procedures through which statelessness can be identified (e.g. through citizenship, residence, and international protection procedures or ex-officio)? <b>If yes, provide details and then proceed to question 11a.</b></p>	<ul style="list-style-type: none"> <li>• <a href="#">ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices</a>: For SDPs to be effective, the determination must be a specific objective of the mechanism in question, though not necessarily the only one.</li> </ul>	<p>There are administrative procedures through which statelessness can be identified, including when applying for international protection, travel documents and citizenship.</p>	

Identification and Protection – February 2019

				<b>If no, proceed to question 15a.</b>			
IDP	11	a	Access to procedures (AAP)	How is statelessness identified through other procedures?	<ul style="list-style-type: none"> <li><a href="#">UNHCR (Good Practices Paper 6)</a>: 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.</li> </ul>	<p>Statelessness is neither consistently registered nor assessed during the <b>asylum procedure</b>. For the purposes of assessing an asylum application, it is the “home country” of the applicant that is of central importance to the Directorate of Immigration (UDI) and the Immigration Appeals Board (UNE), not citizenship status. If asylum is granted, but doubt about the applicant’s identity persists, the duration of the granted residence permit may be limited (thus requiring more frequent applications for renewal of the permit). Statelessness may thus be determined in some cases by UDI or UNE as part of an identity assessment. However, as noted in UNHCR’s 2015 Mapping Study (p.32), “The practice of registering a person as a national of the country of former habitual residence if he or she cannot prove his or her statelessness poses problems under the 1954 Convention” [i.e. the standard of proof to establish statelessness is too high]. If no protection need is evident and the asylum application is rejected, the identity of the applicant, including her citizenship status, will be, as a rule, left unassessed both by UDI and UNE. In case one does not comply with a negative decision, it will be up to the immigration police to determine the identity of the individual and the country to which the individual is to be returned to. This would involve an examination of ID-documents, communication with relevant embassies, interrogation of the person and her family members (if present in Norway), detention where necessary combined with extraction and analysis of data from the person’s smartphone and other belongings as well as monitoring of the</p>	<p><a href="#">Utlendingsforskriften</a> (Immigration Regulations), § 10-13. (NO)</p> <p><a href="#">UNHCR’s 2015 Mapping Study</a>, p. 32.</p>

					<p>persons' further communication with the outside world.</p> <p><b>A foreigner facing practical obstacles preventing return</b> may apply for a residence permit on this ground by requesting UNE to reassess its final rejection of the asylum application. This may be done at the earliest three years after the asylum application was registered and one year after the asylum application was finally rejected by UNE. Certain additional requirements must be met, including clearing any doubt concerning the applicant's identity and cooperation with the immigration police regarding her return. Where statelessness is alleged to constitute the main reason for the impossibility of return, it is necessary for UNE to determine whether the person is stateless. In NOAS' experience, such decisions are rare and often incompatible with UNHCR's guidelines.</p> <p>When <b>applying for travel documents</b> (for refugees or for foreigners with another residence permit), there must not be doubt about the applicant's identity. In such cases statelessness may sometimes be determined by UDI or UNE as part of an identity assessment.</p> <p>When <b>applying for citizenship</b>, relaxed requirements apply for stateless persons (<i>inter alia</i> three years' lawful residence instead of seven). According to a recent government instruction G-08/2016 to UDI, separate rules apply for persons born stateless in Norway (lawful residence is not required, only three years of continuous residence). In cases where the applicant claims to be stateless, it may thus be necessary for UDI or UNE to determine the applicant's statelessness in order to determine whether the relaxed requirements apply.</p>	<p><a href="#">Utlendingsforskriften</a> (Immigration Regulations), § 8-7.</p> <p><a href="#">Utlendingsforskriften</a> (Immigration Regulations), § 12-1. (NO)</p> <p><a href="#">Statsborgerloven</a>, (Nationality Act) § 16. (NO)</p> <p><a href="#">Instruks G-08/2016</a> (NO)</p>
--	--	--	--	--	---	--

Identification and Protection – February 2019

IDP	11	b		Are there obligations in law on authorities to consider a claim for statelessness made within another procedure?	<ul style="list-style-type: none"> <li>• See norm above at question IDP 2e.</li> </ul>	NO. However, once statelessness is identified in the asylum procedure, it will normally stand when applying for citizenship, unless there is new information indicating that the applicant has submitted false information about her identity.	Norwegian Organisation for Asylum Seekers.
IDP	11	c		Are there clear instructions on how to make a claim for statelessness within the particular administrative procedure?	<ul style="list-style-type: none"> <li>• See norm above at question IDP 2b.</li> </ul>	NO.	
IDP	11	d		Is the examination of statelessness conducted by a centralised or localised body?	<ul style="list-style-type: none"> <li>• See norm above at question IDP 2j.</li> </ul>	NO. Applications for asylum, travel documents and citizenship are assessed by separate units within the Directorate of Immigration (UDI) as well as within the Immigration Appeals Board (UNE). There is no centralised system for the examination of statelessness separate from these procedures. If the applicant is stateless, his or her statelessness is sometimes – but not always and not in a consistent manner – determined as part of the application process for asylum, travel document or citizenship.	Norwegian Organisation for Asylum Seekers.
IDP	11	e		Is there training to inform different government bodies about statelessness and determination procedures? Is there training of public officials in identifying statelessness? If yes, please provide details (i.e. who provides the training to whom and how often?)	<ul style="list-style-type: none"> <li>• See norm above at question IDP 2k.</li> </ul>	NO. As far as NOAS is aware, neither the Directorate of Immigration (UDI) nor the Immigration Appeals Board (UNE) receive specialised training on statelessness determination.	Norwegian Organisation for Asylum Seekers.

Identification and Protection – February 2019

IDP	11	f		Is there cooperation between agencies that may have contact with stateless people? If so, how are cases referred to the appropriate authority for determination?	<ul style="list-style-type: none"> <li>• See norm above at question IDP 21.</li> </ul>	There is not much cooperation when it comes to determination of statelessness. There is nevertheless cooperation between several agencies when it comes to general identity assessment in individual cases.	Norwegian Organisation for Asylum Seekers.
IDP	12	a	Assessment (AAP)	What is the burden of proof when identifying an individual's statelessness status?	<ul style="list-style-type: none"> <li>• See norm above at question IDP 4a.</li> </ul>	The burden of proof is shared. Applicants for a residence permit, including asylum, are under a general obligation to "document" their identity (asylum is nevertheless granted where the need for protection is established even if identity is not documented or even if the applicant's identity is in doubt, but the obligation to "document" identity will continue to apply). Administrative agencies, including immigration authorities, are under a general obligation "to ensure that the case is clarified as thoroughly as possible before an administrative decision is made."	<a href="#">Utlendingsforskriften</a> , (Immigration Regulations), § 10-2 (NO)  <a href="#">Forvaltningsloven</a> (Public Administration Act), § 37.
IDP	12	b		What is the standard of proof? Is it the same as in asylum applications?	<ul style="list-style-type: none"> <li>• See norm above at question IDP 4b.</li> </ul>	The standard of proof is "preponderance of evidence" (" <i>sannsynlighetsovervekt</i> "), which is higher than in asylum applications, where an applicant only has to establish "to a reasonable degree" (" <i>noenlunde sannsynlig</i> ") that she is a refugee, provided her claims appear generally credible.	<a href="#">UNHCR's 2015 Mapping Study</a> , p. 32.
IDP	12	c		Are decision makers presented with clear guidance on how to determine statelessness, including sources of evidence and procedures for evidence gathering to establish statelessness? Please provide details.	<ul style="list-style-type: none"> <li>• <a href="#">ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices</a>: determining authorities can benefit significantly from any concrete guidance that sets clear benchmarks and pathways for the establishment of material facts and circumstances.</li> </ul>	NO. Neither the Directorate of Immigration (UDI) nor the Immigration Appeals Board (UNE) have guidelines on statelessness determination.	

Identification and Protection – February 2019

IDP	13	a	Procedural Protections (AAP)	Is there legal aid available during the application?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: applicants are to have access to legal counsel; where free legal assistance is available, it is to be offered to applicants without financial means.</li> <li>• <a href="#">ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices</a>: If state funded legal aid is available in the country it should be provided to stateless claimants. If there is no state funded legal aid... but asylum claimants can access legal aid free of charge, then the same level of access should be provided to stateless claimants.</li> </ul>	<p>NO. <b>Asylum seekers</b> who get their asylum application rejected in the first instance, by the Directorate of Immigration (UDI), normally have the right to free legal assistance to appeal the decision to the Immigration Appeals Board (UNE). This does not apply in asylum cases that UDI refuses to assess on the merits with reference to the so called “safe third country” provision. As described above, determination of statelessness is at best peripheral to determination of a protection need by Norwegian immigration authorities.</p> <p>There is no right to free legal assistance when applying for <b>travel documents or citizenship</b>, irrespective of whether statelessness determination is a necessary part of the assessment.</p> <p>A foreigner claiming to be <b>unable to return</b> can apply for a residence permit on this ground by requesting UNE to reassess its final rejection of the asylum application. As noted above, this may be done at the earliest three years after the asylum application was registered and one year after the application was finally rejected by UNE. There is no right to free legal assistance in such cases, irrespective of whether statelessness determination is part of the assessment. Assessment of the possibility of return is not subject to a two-instance process. The only administrative authority that considers whether a foreigner is to be granted a residence permit on the grounds of impossibility of return is UNE.</p>	<p><a href="#">Utlendingsloven</a> (Immigration Act), § 92; <a href="#">Rundskriv om fri rettshjelp</a> (Circular on Free Legal Aid) (NO).</p>
IDP	13	b		Is an interview always offered (unless granting without interview)?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: The right to an individual interview, and necessary assistance with translation/interpretation</li> </ul>	<p>NO. An interview is always offered when first applying for <b>asylum</b>. However, as stressed above, in an asylum procedure statelessness determination is peripheral at best.</p> <p>There is no right to an individual interview when applying for <b>travel documents or citizenship</b>,</p>	

Identification and Protection – February 2019

					throughout the process, are essential...	irrespective of whether statelessness determination is a necessary part of the procedure in an individual case.  As noted above, a foreigner claiming to be <b>unable to return</b> can apply for a residence permit on this ground by requesting the Immigration Appeals Board (UNE) to reassess its final rejection of the asylum application. According to the Immigration Act, if a case raises “material questions of doubt” ( <i>vesentlige tvilsspørsmål</i> ), it is to be assessed in a board meeting, consisting of a board chair and two board members (as opposed to assessment by a single board chair). Only 9% of all asylum cases considered by UNE were assessed in a board meeting in 2017. When a case is assessed in a board meeting, the right to appear in person “shall as a general rule be granted in asylum cases.”	<a href="#">Utlendingsloven</a> (Immigration Act) § 78; <a href="#">Utlendingsforskriften</a> (Immigration Regulations), § 16-9 (NO).
IDP	13	c		Is an interpreter provided? Free of charge?	<ul style="list-style-type: none"> <li>• <a href="#">ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices</a>: assistance should be available for translation and interpretation in respect of written applications and interviews (good practice is free of charge).</li> </ul>	An interpreter is provided free of charge only in the asylum procedure. No free interpreter is provided for the purposes of applying for travel documents or citizenship, irrespective of whether statelessness determination is a necessary part of the procedure in an individual case.	Norwegian Organisation for Asylum Seekers.
IDP	13	d		Are decisions given with reasons? In writing?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: States are encouraged... to incorporate the following safeguards: [...] decisions are made in writing with reasons.</li> </ul>	YES. However, the Immigration Appeals Board (UNE) shall not give specific reasons in its reply when a request for reassessment of the final rejection of an asylum application “will manifestly not succeed.” This does not apply “if there are special grounds for giving specific reasons.”	<a href="#">Utlendingsloven</a> (Immigration Act) § 78.
IDP	14	a	Stateless Status (AAP)	Does identification of a person as stateless result in permission to stay/legal status or	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: The 1954 Convention ...[grants]</li> </ul>	NO. As interpreted and applied by the Norwegian authorities, the 1954 Convention is practically meaningless with respect to stateless persons who do not have a residence permit on a separate	Norwegian Organisation for Asylum Seekers.

Identification and Protection – February 2019

				any other benefit to the individual? Please describe what status is provided and what benefits attach to it.	stateless persons a core set of rights. Its provisions, along with applicable standards of international human rights law, establish the minimum rights and the obligations of stateless persons in States party to the 1954 Convention. The status granted to a stateless person in a State Party... must reflect these international standards...	ground (e.g. refugee status, humanitarian grounds or family reunification). In other words, neither juridical status nor any rights follow automatically from the sole fact of determining statelessness in an individual case. Stateless persons with a residence permit on a separate ground benefit from relaxed rules when applying for Norwegian citizenship, provided that statelessness is determined in the naturalisation procedure.	<a href="#">Statsborgerloven</a> , (Nationality Act) § 16 (NO).
IDP	16	a	Other routes to regularisation	If none of the above questions can be answered, are there other possibilities by which stateless persons can regularise their stay without their statelessness being determined? For each such status please explain the rights during the procedure. For each such status explain the rights granted to beneficiaries. <b>[Section complete]</b>	As above	As noted above, a foreigner facing practical obstacles preventing return may apply for a residence permit on this ground by requesting the Immigration Appeals Board (UNE) to reassess its final rejection of the asylum application. This may be done at the earliest three years after the asylum application was registered and one year after the asylum application was finally rejected by UNE. Certain additional requirements must be met, including clearing any doubt concerning the applicant's identity and cooperation with the immigration police for return. Where statelessness is alleged to constitute the main reason for the impossibility of return, it is necessary for UNE to determine whether the person is stateless. In NOAS' experience, such decisions are rare and often incompatible with UNHCR guidelines. A residence permit granted on the ground of impossibility of return falls under the category of permits granted on humanitarian grounds. There are several rights and benefits attached to this permit. The permit gives the right to work. It also gives the right to family reunification, provided an income requirement is met. Foreigners with this permit are normally eligible for settlement assistance and have the right and the obligation to participate in a municipal introduction	<a href="#">Utlendingsforskriften</a> (Immigration Regulations), § 8-7, (NO).

Identification and Protection – February 2019

						<p>programme, which is a full-time qualification programme adapted to the individual participant's needs, usually lasting for up to two years. Language training is also provided. Participants of the programme are entitled to receive an introduction benefit (which may satisfy the income requirement for family reunification). The permit is temporary and normally valid for three years but allows application for a permanent residence permit once additional criteria are met.</p>	
--	--	--	--	--	--	--	--

## Detention

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
DET	1	a	Detention screening	Are immigration detention powers provided for in law?	<ul style="list-style-type: none"> <li>• <a href="#">ICCPR Art 9 (1)</a>: Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.</li> <li>• <a href="#">ECHR Art 5 (1)</a>: Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law: ...(f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.</li> </ul>	YES.	<a href="#">Utlendingsloven</a> (Immigration Act) § 106
DET	1	b		Does domestic law allow immigration detention for purposes other than those allowed under ECHR 5(1)(f)?	<ul style="list-style-type: none"> <li>• <a href="#">ECHR Art 5 (1)(f)</a></li> </ul>	Arguably, no. Each ground allowing detention for the purposes of immigration control in Norwegian domestic law can arguably be subsumed under one or both of the limbs of ECHR Art 5(1)(f).	<a href="#">Utlendingsloven</a> (Immigration Act) § 106

DET	1	c		<p>Does a proposed country of removal need to be identified before a person is detained for the purpose of removal? Please describe the situation in law and in practice.</p>	<ul style="list-style-type: none"> <li>• <a href="#">ICCPR Art 7</a>: Repeated attempts to expel a person ... to a country that is refusing to admit the individual in question could amount to inhuman or degrading treatment.</li> <li>• <a href="#">ECHR Art 5 (1)(f)</a></li> <li>• <a href="#">Auad v Bulgaria [2011] Application no 46390/10 (ECtHR)</a>: ...the only issue is whether or not the authorities were sufficiently diligent in their efforts to deport the applicant.</li> <li>• <a href="#">EU Returns Directive</a>: Any detention shall be for as short a period as possible and only maintained as long as removal arrangements are in progress and executed with due diligence.</li> <li>• <a href="#">ECRE, Point of No Return: The Futile Detention of Unreturnable Migrants, 2014</a>: Once un-returnability is established, migrants should not be detained.</li> </ul>	<p>NO. There is no such requirement in law. Detention for the purposes of establishing identity of a foreigner (whether with a view to removal or preventing an unauthorised entry) is explicitly listed as one of the grounds that may justify detention.</p>	<p><a href="#">Utlendingsloven</a> (Immigration Act) § 106</p>
DET	1	d		<p>Is statelessness a juridically relevant fact in any decision to detain (in practice and in law)? If so, at what point(s) is a risk of statelessness identified? Is referral to an SDP possible within the detention regime?</p>	<ul style="list-style-type: none"> <li>• <a href="#">Auad v Bulgaria [2011] Application no 46390/10 (ECtHR)</a>: as above.</li> <li>• <a href="#">Mikolenko v. Estonia, Application no. 10664/05, 8 October 2009 (ECtHR)</a>: Detention is justified as long as “deportation proceedings are being conducted” and these proceedings must be carried out with due diligence...</li> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: Routine detention of individuals seeking protection on the grounds of statelessness is arbitrary... the absence of status determination procedures to verify identity or nationality can lead to prolonged or indefinite detention. SDPs</li> </ul>	<p>Provided that statelessness actually constitutes an obstacle to removal in an individual case, it will be relevant if the individual is detained with a view to removal. This presupposes that the police or the legal representative of the detained stateless person becomes aware/convicted that the person is unreturnable because of her statelessness. The primary focus is nevertheless on the possibility of return, not statelessness. The argument may be made at a court hearing, as immigration detention is subject to periodic judicial oversight (every 4 weeks in case of adults).</p>	<p>Norwegian Organisation for Asylum Seekers.</p> <p><a href="#">Utlendingsloven</a> (Immigration Act) § 106 b.</p>

				<p>are therefore an important mechanism to reduce the risk of prolonged and/or arbitrary detention.</p> <ul style="list-style-type: none"> <li>• <a href="#">Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention</a>: Guideline 13 – 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.</li> <li>• <a href="#">International Commission of Jurists, Migration and International Human Rights Law: a Practitioner’s Guide 2014</a>: the detention of stateless persons can never be justified when there is ‘no active or realistic progress towards transfer to another State’.</li> </ul>		
DET	1	e	<p>Are stateless people detained in practice? Please provide figures and source of information if available.</p>	<p>As above.</p>	<p>YES. Available statistics as well as anecdotal evidence suggest that persons registered as stateless are often successfully forcefully removed from Norway, including to their country or place of previous habitual residence where they have a valid residence permit, for example stateless Palestinians from Jordan, Lebanon, Egypt or the West Bank. Statistics from the Norwegian Immigration Police for January-September 2018 show that 68 stateless persons were forcefully removed from Norway (22 of those pursuant to the Dublin regulation).</p>	<p><a href="#">Immigration Police</a>, p. 5</p>

DET	1	f		<p>Does law (and/or policy) provide that immigration detention should be used only as a last resort, after all alternatives to detention have been exhausted?</p>	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: Detention is therefore a measure of last resort and can only be justified where other less invasive or coercive measures have been considered and found insufficient to safeguard the lawful governmental objective pursued by detention.</li> <li>• <a href="#">EU Returns Directive</a>: Art 15(1) Unless other sufficient but less coercive measures can be applied effectively in a specific case, Member States may only keep in detention a third-country national who is the subject of return procedures in order to prepare the return and/or carry out the removal process.</li> </ul>	<p>NO. There is no requirement to actually “exhaust” alternatives to detention. Alternatives must only be considered as part of the necessity and proportionality assessment.</p>	<p><a href="#">Grunnloven</a> (Constitution) § 94 (NO). <a href="#">Utlendingsloven</a> (Immigration Act) §§ 99, 105, 106.</p>
DET	1	g		<p>Are individual vulnerability assessments carried out before a decision to detain (or shortly thereafter), and are stateless persons defined as a vulnerable group?</p>	<ul style="list-style-type: none"> <li>• <a href="#">ENS (2015) Protecting Stateless Persons from Arbitrary Detention: a regional toolkit for practitioners</a>: Arbitrary and disproportionately lengthy detention can ensue when the particular vulnerabilities of stateless persons are not understood and addressed...</li> <li>• <a href="#">EU Returns Directive</a>: Art 16(3) Particular attention shall be paid to the situation of vulnerable persons...</li> <li>• <a href="#">Council of the European Union Guidelines to Promote and Protect the Enjoyment of All Human Rights by Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Persons 2013</a>: European entities should assess the situation of LGBTI persons in detention...</li> </ul>	<p>Potential vulnerabilities must be taken into consideration as part of the proportionality assessment. This assessment is carried out by the legal section in the immigration police and is also subject to judicial oversight. However, the immigration police do not have any general guidelines on vulnerability assessment.</p>	<p>Norwegian Organisation for Asylum Seekers (information from the leadership of the National Police Immigration Service at a meeting on 09.12.2016).</p>

DET	2	a	<p>Alternatives to immigration detention</p>	<p>Does the country have alternatives to detention which individuals are considered for prior to any decision to detain? Are alternatives to detention established in law? Are they subject to a statutory time limit and proportionality test?</p>	<ul style="list-style-type: none"> <li>• <a href="#">ICCPR Art 9</a></li> <li>• <a href="#">FKAG v Australia (HRC)</a>: Any decision relating to detention must take into account less invasive means of achieving the same ends...</li> <li>• <a href="#">UN General Assembly Resolution on the protection of migrants 63/184 2009</a>: Calls upon all States ... to adopt, where applicable, alternative measures to detention.</li> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: Detention...can only be justified where other less invasive or coercive measures have been considered and found insufficient...</li> <li>• <a href="#">UNHCR (2012), Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention</a> : alternatives to detention refers to any legislation, policy or practice that allows asylum-seekers to reside in the community subject to a number of conditions or restrictions on their freedom of movement and since they can involve restrictions on movement of liberty they are bound by human right standards.</li> <li>• <a href="#">Human Rights Council (HRC), Report of the Special Rapporteur on the human rights of migrants, François Crépeau (2012) A/HRC/20/24</a>: Alternatives to detention should not become alternatives to unconditional release [...] the obligation to always consider alternatives to detention (non-custodial</li> </ul>	<p>YES. Alternatives to detention are set out in § 105 of the Immigration Act, which contains two options: an obligation to report and an obligation to stay in a specific place.</p> <p>Both alternatives to detention may be combined with seizure of travel documents, tickets or other material items which may serve to clarify or prove identity.</p> <p>The Parliament requested the government on 15.03.2018 to propose further alternatives to detention specifically for families with children and, separately, unaccompanied minors.</p> <p>The parliament also requested the government to examine the possibility of electronic tagging as an alternative to detention for immigration purposes.</p>	<p><a href="#">Utlendingsloven</a> (Immigration Act) § 105.</p> <p><a href="#">Utlendingsloven</a> (Immigration Act) § 104.</p> <p><a href="#">Stortinget</a> vedtak 539, 540 (NO).</p> <p><a href="#">Stortinget</a> vedtak 541 (NO).</p>
-----	---	---	--	---	---	--	--

				<p>measures) before resorting to detention should be established by law.</p> <ul style="list-style-type: none"> <li>• <a href="#">Council of Europe (2005), Twenty Guidelines of the Committee of Ministers of Europe on Forced Return</a>: After a careful examination of the necessity of deprivation of liberty in each individual case, the authorities...have concluded that compliance with the removal order cannot be ensured as effectively by resorting to non-custodial measures ...</li> <li>• <a href="#">EU Returns Directive</a>: Art 15(1) Unless other sufficient but less coercive measures can be applied effectively in a specific case, Member States may only keep in detention a third-country national who is the subject of return procedures in order to prepare the return and/or carry out the removal process.</li> <li>• <a href="#">Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention</a>: (31) ...states have an obligation in the first instance to consider and apply appropriate and viable alternatives to immigration detention that are less coercive and intrusive...</li> <li>• <a href="#">International Detention Coalition (2015), There Are Alternatives: A handbook for preventing unnecessary immigration detention (revised edition)</a>: 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.</li> </ul>		
--	--	--	--	--	--	--

DET	2	b		Is there evidence that immigration detention is used in practice prior to all alternatives being considered? Please cite relevant reports.	As above.	YES, but only anecdotal. Anecdotal evidence from a number of individual cases indicates that alternatives to detention are in practice not always considered. This applies to police decisions to arrest as well as court decisions to detain.	Norwegian Organisation for Asylum Seekers.
DET	3	a	Procedural safeguards	Is there a maximum time period for immigration detention set in law? What is it?	<ul style="list-style-type: none"> <li>• <a href="#">UN Human Rights Council (HRC) (2010), Report of the UN Working Group on Arbitrary Detention to the Human Rights Council, 13th Session, A/HRC/13/30</a>: a maximum period of detention must be established by law and upon expiry ...the detainee must be automatically released.</li> <li>• <a href="#">UNHCR (2012), Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention</a> : to guard against arbitrariness, maximum periods of detention should be set in national law.</li> <li>• <a href="#">EU Returns Directive</a>: Art 15(5) Each Member State shall set a limited period of detention ...</li> <li>• <a href="#">ENS (2015) Protecting Stateless Persons from Arbitrary Detention: a regional toolkit for practitioners</a>: It is desirable that states clearly specify a reasonable maximum time limit.</li> <li>• <a href="#">Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention</a>: Guideline 39: Detention should always be for the</li> </ul>	YES. The maximum time limits correspond exactly to the limits prescribed by the EU Returns Directive, which is binding for Norway. Hence the exceptional, maximum time limit for detention is 18 months. This limit does not apply to national security cases and cases where the foreign national has been expelled on account of a criminal conviction. With respect to the former, the Ministry of Justice and Public Security has argued that the EU Returns Directive is not applicable in “serious” national security cases, referring to Article 72 TFEU. With respect to the latter cases concerning expulsion on account of a criminal conviction, application of the EU Returns Directive is excludable pursuant to Article 2(2)(b) of the Directive. In a recent expulsion case brought before the ECtHR against Norway, the Strasbourg Court ruled that the applicant’s extraordinarily long detention with a view to expulsion – two years and	<a href="#">Utlendingsloven</a> (Immigration Act) § 106 b.  <a href="#">Prop. 138 L (2010–2011)</a> , p. 52 (NO)  <a href="#">Jamal v. Norway</a>

					shortest time possible. There should be a reasonable maximum time-limit for detention...	almost seven months – was not in breach of the ECHR, declaring the case inadmissible.	
DET	3	b		Does law/policy provide that individuals must be informed in writing of the reasons for immigration detention? Are detainees provided with information on their rights, contact details of legal advice and support providers, and guidance on how to access an SDP?	<ul style="list-style-type: none"> <li>• <a href="#">UN General Assembly (UNGA) (1988), Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Resolution A/RES/43/173</a>: Anyone who is arrested shall be informed at the time of his arrest of the reason for his arrest and shall be promptly informed of any charges against him.</li> <li>• <a href="#">EU Returns Directive</a>: Detention shall be ordered in writing with reasons being given in fact and in law.</li> <li>• <a href="#">Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention</a>: Guideline 37: Stateless detainees shall receive their order of detention in writing and in a language they understand, and this must outline the reasons for their detention... Detainees must be informed of their rights...</li> <li>• <a href="#">International Commission of Jurists (ICJ) (2014), Migration and International Human Rights Law: a Practitioner’s Guide (updated edition)</a>: The authorities are required to ...ensure that sufficient information is available to detained persons in a language they understand, regarding the nature of their detention, the reasons for it, the process for reviewing or challenging the decision to detain.</li> </ul>	YES. The law requires that reasons for arrest be provided in writing by the police. The police must then as soon as possible and at the latest within 72 hours after arrest request a court for permission to detain. A legal representative is automatically appointed to represent the foreigner. A verdict allowing detention is issued by the court in writing. The verdict must refer to the relevant legal provision as well as material grounds justifying detention. The verdict must also state that detention in the given case is not disproportionate. Detainees are provided with information on their rights upon arrival to the detention centre, along with contact information for NOAS and other relevant organisations.	<a href="#">Utlendingsloven</a> (Immigration Act) §§ 106 a, 106 b.
DET	3	c		Are there regular periodic	<ul style="list-style-type: none"> <li>• <a href="#">EU Returns Directive</a>: Any detention shall ... only be maintained as long as</li> </ul>	YES. There is a periodic judicial review every 4 weeks (this applies in cases	<a href="#">Utlendingsloven</a> (Immigration Act) § 106 b.

			<p>reviews of the necessity for the continuation of detention before a court or an independent body? If yes, are detainees released when it becomes evident that their removal will not be possible within a reasonable time?</p> <p>removal arrangements are in progress and executed with due diligence.</p> <ul style="list-style-type: none"> <li>• <a href="#">Auad v Bulgaria [2011] Application no 46390/10 (ECtHR)</a>: ...the only issue is whether or not the authorities were sufficiently diligent in their efforts to deport the applicant... the length of the detention should not exceed that reasonably required for the purpose pursued.</li> <li>• <a href="#">Kim v Russia [2014] Application no 44260/13 (ECtHR)</a>: The purpose of Art 5(4) ECHR is to guarantee to persons who are arrested and detained the right to judicial supervision of the lawfulness of the measure...</li> <li>• <a href="#">A. v. Australia, CCPR/C/59/D/560/1993, (HRC)</a>: Decisions to detain should be open to review periodically...</li> <li>• <a href="#">Saïd Shamilovich Kadzoev v Direktsia Migratsia' pri Ministerstvo na vatreshniteraboti [2009] Case C-357/09 (ECJ)</a>: There must, at the time of the national Court's review of the lawfulness of detention, be a real prospect that the removal can be carried out successfully.</li> <li>• <a href="#">Council of Europe (2005), Twenty Guidelines of the Committee of Ministers of Europe on Forced Return</a>: Detention pending removal shall be justified only for as long as removal arrangements are in progress.</li> <li>• <a href="#">Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention</a>: Guideline 41: To avoid arbitrariness, detention should be subject to automatic, regular and</li> </ul>	<p>concerning adults; for children it is more frequent). When it becomes evident that forced return is impossible, the detainee is released. As to "reasonable timeframe", see the reference to maximum allowed time limits above.</p>	
--	--	--	--	--	--

					periodic review throughout the period of detention, before a judicial body independent of the detaining authorities.		
DET	3	d		What remedies are available to an individual to challenge detention? How often can these be invoked? Are there any obstacles in practice?	<ul style="list-style-type: none"> <li>• <a href="#">ICCPR Art 9(4)</a>: Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court...</li> <li>• <a href="#">ECHR</a>: Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court....</li> <li>• <a href="#">Kim v Russia [2014] Application no 44260/13 (ECtHR)</a>: the purpose of Art 5(4) ECHR is to guarantee to persons who are arrested and detained the right to judicial supervision of the lawfulness of the measure...</li> </ul>	<p>The police must as soon as possible and latest within 72 hours after arrest request a court for permission to detain (48 hours in cases concerning children, irrespective of whether they are accompanied or not). A lawyer is then automatically appointed to represent the foreigner in an oral hearing before the court. If the permission is granted, there is an automatic, periodic judicial review of detention every 4 weeks (in cases concerning children it's every 3 days), which also involves an oral hearing. In principle, the court's decision may be reversed at any time. Release must be effectuated as soon as the police or the court find that reasons for detention have lapsed.</p> <p>The actual benefit of free legal representation by an appointed lawyer is questionable. In practice, the legal representative will normally not spend much time studying the case. The representative meets a detainee in person 30 minutes before the hearing, although a court may grant more time upon request when this is needed. The representative may also be unfamiliar with the specific immigration or statelessness related issues relevant to the case.</p>	<p><a href="#">Utlendingsloven</a> (Immigration Act) §§ 106 a, 106 b.</p> <p><a href="#">NOAS 2014 detention report</a>, p. 81.</p>

DET	3	e	Are there rules/guidance in place that govern the process of re-documentation and/or ascertaining entitlement to nationality for the purpose of removal? Do these articulate the respective roles that state and individual are expected to play? Are there time limits clearly set out? Are the outcomes considered relevant for subsequent determination of statelessness?	<ul style="list-style-type: none"> <li>• <a href="#">Ariad v Bulgaria [2011] Application no 46390/10 (ECtHR)</a>: The only issue is whether or not the authorities were sufficiently diligent in their efforts to deport the applicant.</li> <li>• <a href="#">Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention</a>: The inability of a stateless person to cooperate with removal proceedings should not be treated as non-cooperation.</li> <li>• <a href="#">ENS (2015) Protecting Stateless Persons from Arbitrary Detention: a regional toolkit for practitioners</a>: The detaining state should have rules in place that govern the process of re-documentation and/ or ascertaining entitlement to nationality...</li> <li>• <a href="#">ECRE, Point of No Return: The Futile Detention of Unreturnable Migrants, 2014</a>: Once un-returnability is established, migrants should not be detained.</li> </ul>	NO.	Norwegian Organisation for Asylum Seekers.
DET	3	f	Is free legal aid available to challenge detention? Are there any barriers to accessing this in practice?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: Judicial oversight of detention is always necessary and detained individuals need to have access to legal representation, including free counselling for those without means.</li> <li>• <a href="#">EU Returns Directive</a>: Art 13(3) The third-country national concerned shall</li> </ul>	Yes, a lawyer is automatically provided when the court examines the legality of detention, and there are no barriers to accessing this in practice.	<a href="#">Utlendingsloven</a> (Immigration Act) § 92.

					have the possibility to obtain legal advice, representation and, where necessary, linguistic assistance.		
DET	4	a	Protections on release	Are those released from detention issued with any identification, including confirmation of their stateless status, and thus protected from arbitrary re-detention?	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a>: Art 27</li> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: ...being undocumented or lacking the necessary immigration permits cannot be used as a general justification for detention...</li> <li>• <a href="#">ENS (2015) Protecting Stateless Persons from Arbitrary Detention: a regional toolkit for practitioners</a>: ...state parties to the 1954 Convention have an obligation to provide stay rights to stateless persons who have been released from detention.</li> <li>• <a href="#">Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention</a>: Guidelines 55 &amp; 56: Released stateless detainees should be provided with appropriate documentation and stay rights suitable to their situation.</li> </ul>	NO.	Norwegian Organisation for Asylum Seekers.
DET	4	b		If the purpose of detention cannot be fulfilled (e.g. removal) and the person is released, what legal status is provided to them by law? Can they access social security	<ul style="list-style-type: none"> <li>• <a href="#">Said Shamilovich Kadzoev v Direksia Migratsia' pri Ministerstvo na vatreshnite raboti [2009] Case C-357/09 (ECJ)</a>: Article 15(4) and (6) of the Directive should be interpreted as requiring that after the maximum period of detention has expired, the person must be released immediately... the individual's lack of valid documentation, his/her inability to support him/herself or his/her "aggressive conduct" should not be a deterrent to his/her release.</li> </ul>	No status is automatically provided upon release, as the impossibility of forced return does not necessarily imply impossibility of voluntary return. In some cases, forced return may become possible at a later time, leading to repeated detention. Every person who has requested asylum, irrespective of the outcome of their claim, is provided with accommodation at asylum reception centres (irrespective of whether they	Norwegian Organisation for Asylum Seekers.

				<p>accommodation, education and healthcare? Do they have the right to work?</p>	<ul style="list-style-type: none"> <li>• <a href="#">Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention</a>: Guideline 55 as above.</li> </ul>	<p>previously were detained or not), basic means of subsistence and access to emergency health care until they leave the country. In rare occasions that we are approached by persons who have not applied for asylum and claim they have a protection need, we advise them to apply for asylum.</p>	
DET	4	c		<p>If re-detention does occur, is the cumulative time spent in detention counted towards any maximum time limits?</p>	<ul style="list-style-type: none"> <li>• <a href="#">Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention</a>: Guideline 40: When calculating the total time spent by an individual in detention, it is highly desirable that time spent in detention on previous occasions is taken into consideration.</li> </ul>	<p>YES, as a starting point, the time spent in immigration detention under separate occasions is counted cumulatively towards the maximum time limit. However, a material change of circumstances may in certain circumstances allow for re-detention and thus extend the detention period beyond the allowed maximum limit, as further elaborated in relevant jurisprudence.</p> <p>The Immigration Act sets limits for the “total detention time” (<i>samlet interneringstid</i>) for detention on immigration related grounds. A court cannot prolong detention after an arrest beyond these limits.</p> <p>The Supreme Court held in 1994, pursuant to the old Immigration Act, that even a clear violation of the obligation to report could not justify re-detention in a case where the maximum time limit for immigration detention (at that time 6 months) had already been reached.</p>	<p><a href="#">Utlendingsloven</a> (Immigration Act) § 106 b.</p> <p><a href="#">Rt-1994-953</a> (NO)</p> <p><a href="#">Rt-2006-717</a> (NO)</p>

DET	5	a	Readmission agreements	Is statelessness considered a juridically relevant fact in any readmission and/or bilateral return agreements?	<a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a> : Efforts to secure admission or readmission may be justified but these need to take place subsequent to a determination of statelessness.	NO.	For example: <a href="#">Readmission agreement with Russia</a> <a href="#">Readmission agreement with Ukraine</a>
DET	5	b		Are you aware of cases of stateless people being returned under such agreements?		YES, for example stateless Palestinian refugees from Syria with and without a residence permit in Russia returned to Russia in 2015 pursuant to a bilateral readmission agreement between Norway and Russia. NOAS has recently also registered and intervened in a case of a stateless Palestinian refugee from Syria accepted by Ukraine, pursuant to a bilateral readmission agreement between Norway and Ukraine, despite him not having a residence permit in Ukraine.	Norwegian Organisation for Asylum Seekers.

## Prevention and Reduction

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
PRS	1	a	Stateless born on territory	<p>Is there a provision in law for stateless children born on the territory to be granted nationality?  <b>If yes, continue with PRS1b below. If no, proceed to PRS1j.</b></p>	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention on the Reduction of Statelessness, 1961</a>: A Contracting State shall grant its nationality to a person born in its territory who would otherwise be stateless...</li> <li>• <a href="#">European Convention on Nationality, 1997</a>: Each State Party shall provide in its internal law for its nationality to be acquired by children born on its territory who do not acquire at birth another nationality...</li> <li>• <a href="#">Convention on the Rights of the Child 1989</a>: The child shall have... the right to acquire a nationality... States Parties shall ensure the implementation of these rights...in particular where the child would otherwise be stateless... States Parties undertake to respect the right of the child to preserve his or her identity, including nationality...</li> <li>• <a href="#">Genovese v. Malta (ECtHR) Application No. 53124/09, 11 October 2011</a></li> </ul>	<p>YES. There is no separate provision in the Nationality Act to grant citizenship to stateless persons <i>born on the territory</i> specifically. However, there is a general naturalisation provision, titled “main rule” (§7), which allows for naturalisation subject to application, provided that certain requirements are met. Then there is a separate provision (§16), containing exceptions from the main rule, applicable to stateless persons, irrespective of whether they were born on the territory. According to §3 of the Nationality Act, the Act is “subject to the limitations that follow from agreements with other states and all other international law”. To ensure that the Nationality Act is applied in line with the 1961 Convention, the Government issued on 28.10.2016 an instruction, G-08/2016, which is binding for the Directorate of Immigration (UDI), spelling out <b>additional exemptions applicable specifically to persons born stateless under the Norwegian jurisdiction</b>. The instruction covers persons born stateless in Norway irrespective of whether they currently are under or over 18 years old.</p>	<p><a href="#">Statsborgerloven</a> (Nationality Act), §§ 3, 7, 16 (NO).</p> <p><a href="#">Instruks G-08/2016</a> (NO)</p>
PRS	1	b		<p>Is the provision for stateless children to access nationality automatic or non-automatic (i.e. by application)?</p>	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR Guidelines on Statelessness #4 2012</a>: Article 1 of the 1961 Convention provides Contracting States with two alternatives ...for granting nationality to children who would otherwise be stateless born in their territory...either...automatic acquisition</li> </ul>	<p>Non-automatic, i.e. it is subject to application.</p>	

Prevention and Reduction – February 2019

					<p>...upon birth pursuant to Article 1(1)(a), or ...upon application pursuant to Article 1(1)(b) ...</p> <ul style="list-style-type: none"> <li>• <a href="#">ENS (2015), No Child Should Be Stateless</a>: Article 1 of the 1961 Convention and article 6(2) of the ECN ... oblige the conferral of nationality to children born on the territory if they would otherwise be stateless ... The ...optimal method ...is to grant nationality to otherwise stateless children automatically, at birth.</li> </ul>		
PRS	1	c		<p>Is it a requirement that the parents are also stateless for the child to acquire the nationality of the host state?</p>	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR Guidelines on Statelessness #4 2012</a>: The test is whether a child is stateless because he or she acquires neither the nationality of his or her parents nor that of the State of his or her birth; it is not an inquiry into whether a child's parents are stateless.</li> <li>• <a href="#">ENS (2015), No Child Should Be Stateless</a>: Only allowing access to nationality for stateless children whose parents are stateless fails to account for the circumstance where the child's parent(s) do hold a nationality themselves, but are unable to pass this on...</li> </ul>	NO.	<p><a href="#">Statsborgerloven</a> (Nationality Act), §§ 3, 7, 16 (NO). <a href="#">Instruks G-08/2016</a> (NO)</p>
PRS	1	d		<p>Are children born stateless required to prove they cannot access another nationality to acquire nationality of the country of birth? If yes, please describe the</p>	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR Guidelines on Statelessness #4 2012</a>: A Contracting State to the 1961 Convention cannot avoid the obligations to grant its nationality to a person who would otherwise be stateless...based on its own interpretation of another State's nationality laws where this conflicts with the interpretation applied by the State concerned... the burden of proof must be shared between the claimant and the authorities... decision makers need to take</li> </ul>	NO.	<p><a href="#">Statsborgerloven</a> (Nationality Act), §§ 3, 7, 16. <a href="#">Instruks G-08/2016</a> (NO)</p>

Prevention and Reduction – February 2019

				<p>requirement e.g. what is the standard and burden of proof, and how this is determined in practice?</p>	<p>into account Articles 3 and 7 of the CRC and adopt an appropriate standard of proof... Special procedural considerations to address the acute challenges faced by children... in communicating basic facts with respect to their nationality are to be respected.</p>		
PRS	1	e		<p>Is a stateless child born on the territory required to fulfil a period of residence to be granted nationality? If yes, what is it? Must this be legal and/or permanent residence?</p>	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention on the Reduction of Statelessness, 1961</a>: A Contracting State may make the grant of its nationality...subject to one or more of the following conditions: <ul style="list-style-type: none"> <li>...b) that the person concerned has habitually resided in the territory ... for such period...not exceeding five years immediately preceding the ... application nor ten years in all.</li> </ul> </li> <li>• <a href="#">UNHCR Guidelines on Statelessness #4 2012</a>: States may stipulate that an individual who would otherwise be stateless born in its territory fulfils a period of “habitual residence”. This period is not to exceed five years immediately preceding an application nor ten years in all...The term “habitual residence” is ...to be understood as stable, factual residence. It does not imply a legal or formal residence requirement.</li> <li>• <a href="#">Convention on the Rights of the Child 1989</a>: Arts 3 &amp; 7</li> <li>• <a href="#">Committee on the Rights of the Child, Concluding observations on the 4th periodic report of the Netherlands CRC/C/NDL/CO/4, 2015</a>: The Committee recommends that the State party ensure that all stateless children born in its territory, irrespective of residency status,</li> </ul>	<p>According to government instruction G-08/2016, issued 28.10.2016, which is binding for the Directorate of Immigration (UDI), lawful residence is not a requirement for persons born stateless under the Norwegian jurisdiction to acquire Norwegian nationality. Factual, continuous residence of three years is sufficient in these cases (usually a birth certificate plus absence of evidence to the contrary is sufficient proof). No residence period is required in cases where a parent of the applicant satisfies the requirements for permanent residence or where the parent is an EU citizen residing in Norway pursuant to EU rules on free movement.</p>	<p><a href="#">Instruks G-08/2016</a> (NO)</p> <p>Norwegian Organisation for Asylum Seekers.</p>

Prevention and Reduction – February 2019

					<p>have access to citizenship without any conditions.</p> <ul style="list-style-type: none"> <li>• <a href="#">European Convention on Nationality, 1997</a>: Article 6 (2)(b) ... Such an application may be made subject to the lawful and habitual residence on its territory for a period not exceeding five years....</li> </ul>		
PRS	1	f		<p>Are the parents of a stateless child required to fulfil a period of residence for the child to be granted nationality? If yes, what is it? Must this be legal and/or permanent residence?</p>	<ul style="list-style-type: none"> <li>• <a href="#">Committee on the Rights of the Child, Concluding Observations Czech Republic CRC/C/CZE/CO/3-4, 2011</a>: 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...</li> <li>• <a href="#">ENS (2015), No Child Should Be Stateless</a>: Demanding that the child or his/her parents reside lawfully on the territory is... prohibited by the 1961 Convention....</li> </ul>	NO (see above).	
PRS	1	g		<p>What are the age limits, if any, for making an application for nationality for a stateless person born on the territory?</p>	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention on the Reduction of Statelessness, 1961</a>: A Contracting State may make the grant of its nationality...subject to one or more of the following conditions: (a) that the application is lodged during a period... beginning not later than at the age of 18 years and ending not earlier than at the age of 21 years...</li> <li>• <a href="#">UNHCR Guidelines on Statelessness #4 2012</a>: ...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...</li> <li>• <a href="#">ENS (2015), No Child Should Be Stateless</a>: ...any application procedure which only becomes available in late</li> </ul>	No age limit.	

Prevention and Reduction – February 2019

					childhood or even upon reaching majority is particularly problematic [...] 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...		
PRS	1	h		Are there specific provisions for the nationality of children born to beneficiaries of international protection?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR Guidelines on Statelessness #4 2012</a>: Some children are born to refugee parents who are themselves stateless or cannot acquire the nationality of their parents owing to restrictions on transmission of nationality to children born abroad. Where the nationality of the parents can be acquired through a registration or other procedure, this will be impossible owing to the very nature of refugee status which precludes refugee parents from contacting their consular authorities.</li> </ul>	NO.	
PRS	2	a	Foundlings	Are foundlings granted citizenship by law? If it's not automatic, is there an application procedure?	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention on the Reduction of Statelessness, 1961</a>: A foundling found in the territory of a Contracting State shall, in the absence of proof to the contrary, be considered to have been born within that territory of parents possessing the nationality of that State.</li> <li>• <a href="#">European Convention on Nationality, 1997</a>: Each State Party shall provide in its internal law for its nationality to be acquired ex lege by the following persons: [...] b) foundlings found in its territory who would otherwise be stateless.</li> </ul>	YES. Automatic, rebuttable presumption.	<a href="#">Statsborgerloven</a> (Nationality Act), § 4 (NO).
PRS	2	b		If yes, is there an age limit (or status e.g. 'newborn')	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR Guidelines on Statelessness #4 2012</a>: At a minimum, the safeguard ... is to apply to all young children who are not yet able to communicate accurately</li> </ul>	The provision (§4 of the Nationality Act) applies generally to foundlings, without specifying any explicit age limit. The preparatory works to the provision state	<a href="#">Statsborgerloven</a> (Nationality Act), § 4 (NO). <a href="#">Ot.prp.nr.41 (2004–2005)</a> , p. 217 (NO).

Prevention and Reduction – February 2019

				specified for foundlings to be granted citizenship? If not, when would a child usually qualify in practice?	information pertaining to the identity of their parents or their place of birth...	that the provision is to apply “even if there are indications that the child does not have Norwegian parents”. As further specified in the preparatory works, Norwegian citizenship will be granted “until the correct origin of the child becomes known”.	
PRS	2	c		Can citizenship be withdrawn from foundlings if parents are identified even if this leads to statelessness?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR Guidelines on Statelessness #4 2012</a>: Nationality acquired by foundlings... may only be lost if it is proven that the child concerned possesses another State’s nationality.</li> </ul>	YES. The preparatory works to the provision (§4 of the Nationality Act) explicitly state that “The child’s Norwegian citizenship also expires if it is later known that the child is stateless.” The child will be able to apply for naturalisation pursuant to special rules for stateless persons (§16 of the Nationality Act and the instruction G-08/2016 mentioned above).	<a href="#">Statsborgerloven</a> (Nationality Act), § 4 (NO). <a href="#">Ot.prp.nr.41 (2004–2005)</a> , p. 217 (NO).
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?	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention on the Reduction of Statelessness, 1961</a>: If the law of a Contracting State entails loss of nationality as a consequence of any change in the personal status of a person such as...adoption, such loss shall be conditional upon possession or acquisition of another nationality.</li> <li>• <a href="#">ENS (2015), No Child Should Be Stateless</a>: ...the “sending” state in a situation of inter-country adoption may be a non-European one, so even if Europe’s nationality laws were all in alignment with international standards, children may be exposed to a (temporary) risk of statelessness during the adoption process.</li> </ul>	NO.	<a href="#">Statsborgerloven</a> (Nationality Act), chapter V (NO).

Prevention and Reduction – February 2019

PRS	3	b		<p>Does a foreign child adopted by national parents acquire nationality? Is there a risk of statelessness during the adoption process? Are there any age limits?</p>	<ul style="list-style-type: none"> <li>• <a href="#">European Convention on Nationality, 1997</a>: Each State Party shall facilitate in its internal law the acquisition of its nationality for the following persons: ...d) children adopted by one of its nationals...</li> <li>• <a href="#">Committee on the Rights of the Child, Concluding Observations: Switzerland, CRC/C/CHE/CO/2-04, 2015</a>: ...ensure that a child adopted from abroad is not stateless or discriminated against during the waiting period between...arrival...and formal adoption.</li> </ul>	<p>YES, a foreign child adopted by a Norwegian parent acquires Norwegian nationality. If it is later revealed that a positive adoption decision was wrongfully decided, the adopted child keeps her Norwegian nationality if she would otherwise be stateless.</p>	<p><a href="#">Statsborgerloven</a> (Nationality Act), §§ 5, 6 (NO).</p>
PRS	4	a	<p>ius sanguinis and discrimination</p>	<p>Can children born to nationals abroad acquire nationality by descent (<i>ius sanguinis</i>)? Are there any conditions? Are these conditions discriminatory? (see below if child would otherwise be stateless)</p>	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention on the Reduction of Statelessness, 1961</a>: Art 4</li> <li>• <a href="#">UNHCR Guidelines on Statelessness #4 2012</a>: ...where a child who would otherwise be stateless is born in a Contracting State to parents of another Contracting State but does not acquire the nationality of the State of birth... responsibility falls to the Contracting State of the parents to grant its nationality to the child...</li> <li>• <a href="#">Genovese v. Malta (ECtHR) Application No. 53124/09, 11 October 2011</a>: the impact of denial of citizenship on the applicant's social identity was such as to bring it within the general scope and ambit of Article 8... the state ... must ensure that the right is secured without discrimination...</li> <li>• <a href="#">Convention on the Elimination of all Forms of Discrimination Against Women, General recommendation No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, November 2014</a></li> </ul>	<p>YES, a child born to a national acquires nationality by descent, irrespective of where the child is born.</p>	<p><a href="#">Statsborgerloven</a> (Nationality Act), § 4 (NO).</p>

Prevention and Reduction – February 2019

					<ul style="list-style-type: none"> <li>• <a href="#">UNHCR Global Action Plan to End Statelessness 2014-24: Action 4</a></li> <li>• <a href="#">Fighting statelessness and discriminatory nationality law in Europe, Laura van Waas, 2012</a></li> </ul>		
PRS	4	b		Can children born to nationals outside the country access nationality by descent ( <i>ius sanguinis</i> ) if they would otherwise be stateless? Are there any conditions? Are these conditions discriminatory?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR Guidelines on Statelessness #4 2012</a>: ... where children of a national of a Contracting State who would otherwise be stateless are born in a non-Contracting State... the Contracting State of the parents [is required] to grant its nationality to the child (or children) of its nationals born abroad...</li> </ul>	As noted above, a child born to a national acquires nationality by descent, irrespective of where the child is born.	<a href="#">Statsborgerloven</a> (Nationality Act), § 4 (NO).
PRS	5	a	Access to birth registration	Does the law provide that all children are registered immediately upon birth? Can children be registered if parents are undocumented and/or not legally residing in the country (by law)?	<ul style="list-style-type: none"> <li>• <a href="#">Convention on the Rights of the Child 1989</a>: The child shall be registered immediately after birth and shall have the right from birth to a name [and] the right to acquire a nationality...</li> <li>• <a href="#">International Covenant on Civil and Political Rights 1966</a>: Art 24(2)</li> <li>• <a href="#">Council of Europe, Recommendation CM/Rec (2009) 13 of the Committee of Ministers to member states on the nationality of children</a></li> <li>• <a href="#">UNHCR Guidelines on Statelessness #4 2012</a>: ... registration of the birth provides proof of descent and of place of birth and therefore underpins implementation of the 1961 Convention...Article 7 CRC ...applies irrespective of the nationality, statelessness or residence status of the parents.</li> </ul>	YES, every birth in Norway must be registered, irrespective of the parents' immigration status.	<a href="#">Barnelova</a> (the Children Act), § 1 (NO).

Prevention and Reduction – February 2019

					<ul style="list-style-type: none"> <li>• <a href="#">UNHCR Global Action Plan to End Statelessness 2014-24: Action 7</a></li> <li>• <a href="#">UN Sustainable Development Goal 16</a></li> <li>• <a href="#">UN Human Rights Council, Resolution A/HRC/RES/20/4</a>: ... ensure free birth registration, including free or low-fee late birth registration, for every child...irrespective of his or her immigration status and that of his or her parents or family members...</li> </ul>		
PRS	5	b		Are there credible reports to suggest that children are prevented from registering in practice because of parents' status?	As above	NO.	
PRS	5	c		Are there mandatory reporting requirements for authorities which would deter undocumented parents coming forward to register their children (e.g. health authorities required to report undocumented migrants)?	<ul style="list-style-type: none"> <li>• <a href="#">UNICEF, Access to Civil, Economic and Social Rights for Children in the Context of Irregular Migration, 2012</a>: While there is generally a separation between civil registries and immigration enforcement, undocumented parents may also fear detection, particularly in countries where civil servants have a duty to report undocumented migrants...</li> <li>• <a href="#">PICUM, Rights of Accompanied Children in an Irregular Situation, 2011</a>: Certain barriers that prevent access to basic rights for children in an irregular migration situation arise across the registry, health, education and housing sectors. National legislation is often...contradicted by other rules and practices, such as the duty to denounce ...</li> </ul>	NO.	

Prevention and Reduction – February 2019

PRS	6	a	Late Birth Registration	Is there a statutory deadline before which birth registration should be completed? If yes, what is it? Is late birth registration possible by law?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR Global Action Plan to End Statelessness 2014-24</a>: Low levels of birth registration can be difficult to correct subsequently because procedures for late birth registration have not been established or are lengthy, costly and complex and therefore inaccessible ...</li> <li>• <a href="#">UN Human Rights Council, Resolution A/HRC/RES/20/4</a></li> <li>• <a href="#">Council of Europe, Recommendation CM/Rec (2009) 13 of the Committee of Ministers to member states on the nationality of children</a></li> <li>• <a href="#">ENS (2015), No Child Should Be Stateless</a>: One of the ways in which states have sought to deal with an intergenerational lack of documentation is by simplifying the procedures for the late registration of births, making it easier for adults who do not have a birth certificate to acquire one, which can subsequently be used to register their own children's births...</li> </ul>	YES. The doctor or midwife must give notification of the birth to the National Registry Authority "when a child is born". If a child is born without any assistance from a doctor or a midwife, the mother of the child has the obligation to notify the national registry "within one month" from the date of birth or, in case the child is born abroad, from the date of arrival to Norway. Nothing suggests that a late registration would not be accepted.	<a href="#">Barneleva</a> (the Children Act), § 1 (NO).
PRS	6	b		Is late birth registration possible in practice?	As above	Nothing suggests that this is an issue.	
PRS	6	c		Are there any additional requirements (e.g. fee) for the late birth registration procedure? Are these problematic or do they cause lengthy delays?	<ul style="list-style-type: none"> <li>• <a href="#">UN Human Rights Council, Resolution A/HRC/RES/20/4</a></li> </ul>	Nothing suggests that this is an issue.	

Prevention and Reduction – February 2019

PRS	7	a	Reduction	Does the government have any programmes in place to promote civil registration (including birth registration)? If yes, please provide details.	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR Global Action Plan to End Statelessness 2014-24: Action 7</a></li> <li>• <a href="#">Council of Europe, 3rd European Conference on Nationality, 11-12 October 2004</a>: Taken together Art 7 &amp; 8 ECHR should be understood to encourage States Parties not only to take positive steps to avoid statelessness – including the promotion of birth registration – but also to grant citizenship to children who would otherwise be stateless...</li> </ul>	Nothing suggests that this is an issue.	
PRS	7	b		Are there sections of the population believed to be stateless/at risk of statelessness? Are minorities disproportionately affected? Please provide details and source of information.	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention on the Reduction of Statelessness, 1961</a> Article 9</li> <li>• <a href="#">UNHCR Global Action Plan to End Statelessness 2014-24: Action 4</a></li> </ul>	YES. Some persons with immigrant background, both with and without a residence permit. See statistics from the Norwegian statistics bureau.	<a href="#">Norwegian statistics bureau</a>  <a href="#">Norwegian statistics bureau</a>
PRS	7	c		Has the Government implemented any other measures specifically aimed at reducing (risk of) statelessness? (e.g. identification, registration or naturalisation campaigns, removal of treaty reservations, reform of	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention on the Reduction of Statelessness, 1961</a></li> <li>• <a href="#">UNHCR Global Action Plan to End Statelessness 2014-24: Action 1, Action 8</a></li> <li>• <a href="#">UNHCR, Good Practices Paper - Action 1: Resolving Existing Major Situations of Statelessness, 2015</a></li> </ul>	To ensure that the Nationality Act is applied in line with the 1961 Convention, the Government issued on 28.10.2016 an instruction, G-08/2016, which is binding for the Directorate of Immigration (UDI), spelling out additional exemptions applicable specifically to persons born stateless under the Norwegian jurisdiction. The instruction covers persons born stateless in Norway irrespective of whether they currently are under or over 18 years old. According to the instruction, which is binding for the Directorate of Immigration (UDI), lawful residence is not a requirement for persons born stateless under the Norwegian jurisdiction to acquire	<a href="#">Instruks G-08/2016</a> (NO)

Prevention and Reduction – February 2019

				discriminatory laws, etc.)		Norwegian nationality. Factual, continuous residence of three years is sufficient in these cases. No residence period is required in cases where the parent of the applicant satisfies the requirements for permanent residence or where the parent is an EU citizen residing in Norway pursuant to EU rules on free movement.	
PRS	8	a	Withdrawal of nationality	Are there any provisions on loss and/or deprivation of nationality? If yes, are these established in law? If not, where can they be found? Do any loss/deprivation provisions allow for statelessness? If there is a safeguard against statelessness, is it applied in practice?	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention on the Reduction of Statelessness, 1961</a>: Article 8: A contracting state shall not deprive a person of its nationality if such deprivation would render him stateless.</li> <li>• <a href="#">European Convention on Nationality, 1997</a>: Article 7(3): A State party may not provide in its internal law for the loss of its nationality...if the person concerned would thereby become stateless...</li> <li>• <a href="#">Universal Declaration of Human Rights</a>: Article 15(2) No one shall be arbitrarily deprived of his nationality ...</li> </ul>	YES, provisions are established in law. Withdrawal of citizenship cannot lead to statelessness except where the nationality has been obtained by misrepresentation or fraud.	<a href="#">Statsborgerloven</a> (Nationality Act), chapter V (NO).
PRS	8	b		Who is the competent authority in any procedure for ordering deprivation of nationality? What procedural guarantees are there? (e.g. judicial oversight, time limit, subject	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention on the Reduction of Statelessness, 1961</a>: Article 8(4): A contracting state shall not exercise a power of deprivation...except in accordance with the law, which shall provide for ...the right to a fair hearing by a court or other independent body.</li> <li>• <a href="#">European Convention on Nationality, 1997</a>: Article 11: Each state party shall ensure that decisions relating to the acquisition, retention, loss, recovery or</li> </ul>	All cases concerning withdrawal of nationality on the grounds of identity misrepresentation or fraud are currently on hold. The parliament instructed on 09.05.2017 the Government to draft a law proposal to subject such cases to judicial review. The Ministry of Education and Research has now proposed two alternative models of processing these cases involving judicial review, that the parliament will discuss further.	<a href="#">Forslag til endringer i statsborgerloven (domstolsbehandling av saker om tilbakekall av statsborgerskap)</a> (Proposal to amend the Nationality Act, judicial review of cases concerning cancellation of citizenship) (NO).

Prevention and Reduction – February 2019

				to prior sentencing, appeal rights, legal aid)	certification of its nationality contain reasons in writing...	Separately, a new law amendment entered into force on 01.01.2019 allowing courts, as part of sentencing, to deprive citizenship in serious criminal cases, including terrorism-related cases. Deprivation may not result in statelessness.	<a href="#">Endringslov til statsborgerloven mv. (tap av statsborgerskap ved straffbare forhold)</a> (Law amendment to the Nationality Act, deprivation of citizenship in criminal matters) (NO).
PRS	8	c		Are withdrawal provisions (both for loss and deprivation) applied in practice?		Currently on hold (see above).	

Jurisprudence and Training

Cat	Q	Sub	Subtheme	Question	International Norms/Good Practice	Answer	Source
LIT	1	a	Published judgements	Number of published judgements adjudicating statelessness (broken down by level of jurisdiction). Please list.		In total, NOAS is aware of seven cases pending before either the Oslo District Court ( <i>Oslo tingrett</i> ) or the Borgarting Court of Appeal ( <i>Borgarting lagmannsrett</i> ), where the applicant has alleged that a refusal from the Immigration Appeals Board to grant international protection was inconsistent with the 1954 Statelessness Convention. So far, there is only one published judgment from the Oslo District Court. The judgment addresses <i>inter alia</i> the interpretation of the definition of statelessness. The judgment was in favour of the applicant but it is not final, as the Immigration Appeals Board has appealed the judgment to the Borgarting Court of Appeal. The Oslo District Court has issued at least three additional judgments in similar statelessness cases that are unpublished and pending appeal.	<a href="#">TOSLO-2017-182937</a> (NO)
LIT	1	b		Number of published judgements mentioning statelessness (broken down by level of jurisdiction). Please list.		N/A	
LIT	2	a	Legal training	Is there judicial training on statelessness? If yes, please provide details (e.g. provider, frequency).	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: 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.</li> <li>• <a href="#">UNHCR Expert Meeting, Statelessness</a></li> </ul>	NO.	

					<p><a href="#">Determination Procedures and the Status of Stateless Persons 2010</a>: It is recommended that States provide specialised training on nationality laws and practices, international standards and statelessness to officials responsible for making statelessness determinations.</p>		
LIT	2	b		<p>Is there training for lawyers on statelessness? If yes, please describe.</p>	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR Expert Meeting, Statelessness Determination Procedures and the Status of Stateless Persons 2010</a>: as above</li> </ul>	<p>YES. The Center for Continuing Legal Education (<i>Juristenes Utdanningscenter</i>) in cooperation with NOAS organised on 24.01.2017 a one-day seminar for lawyers, where one of the topics discussed was “Statelessness as a separate ground for a residence permit?”. NOAS plans to follow up with a similar event in 2019.</p>	
LIT	3	a	Pro Bono	<p>Are there specialised lawyers, law firms or organisations providing free advice to stateless persons or those at risk of statelessness? If yes, please describe.</p>	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: Applicants are to have access to legal counsel.</li> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: Gives the example of Liverpool Law Clinic providing legal assistance to stateless clients in the UK.</li> </ul>	<p>Some law firms in Norway have developed special competency in statelessness issues, as part of their cooperation with NOAS in related strategic litigation. NOAS provides specialised legal aid to asylum seekers as well as to stateless persons who do not have a residence permit in any country.</p>	<p><a href="#">Norwegian Organisation for Asylum Seekers</a></p>
LIT	4	a	Literature	<p>Is there domestic academic literature on statelessness? If possible, please list and provide references and</p>		<p>NO.</p>	

				hyperlinks (where available).			
--	--	--	--	-------------------------------	--	--	--