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## International and Regional Instruments

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
IOB	1	a	1954 Convention	Is your country party to the 1954 Stateless-ness Convention?	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a></li> </ul>	Yes	Classified compilation of Swiss legislation, available at <a href="https://www.admin.ch/gov/en/start/federal-law/classified-compilation.html">https://www.admin.ch/gov/en/start/federal-law/classified-compilation.html</a> , listing all legislative acts in force in all official languages (German (DE), French (FR), Italian (I)) as well as an unofficial English translation for some acts. For the 1954 Convention see <a href="https://www.admin.ch/opc/de/classified-compilation/19540178/index.html">https://www.admin.ch/opc/de/classified-compilation/19540178/index.html</a> (DE) and <a href="https://www.admin.ch/opc/fr/classified-compilation/19540178/index.html">https://www.admin.ch/opc/fr/classified-compilation/19540178/index.html</a> (FR). See also United Nations Treaty Collection, <a href="https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&amp;mt_dsg_no=V-3&amp;chapter=5&amp;Temp=mt_dsg2&amp;clang=en">https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&amp;mt_dsg_no=V-3&amp;chapter=5&amp;Temp=mt_dsg2&amp;clang=en</a>
IOB	1	b		If yes, when was ratification/accession?		3 July 1972	Entry into force: 1 October 1972 ( <a href="https://www.admin.ch/opc/de/classified-compilation/19540178/index.html">https://www.admin.ch/opc/de/classified-compilation/19540178/index.html</a> )
IOB	1	c		Are there reservations in place? Please list them.	<ul style="list-style-type: none"> <li>• Best practice is no reservations. If there are, they should have little or no effect on the rights of stateless persons.</li> </ul>	No	<a href="https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&amp;mt_dsg_no=V-3&amp;chapter=5&amp;Temp=mt_dsg2&amp;clang=en">https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&amp;mt_dsg_no=V-3&amp;chapter=5&amp;Temp=mt_dsg2&amp;clang=en</a>
IOB	1	d		Does the Convention have direct effect?	<ul style="list-style-type: none"> <li>• Best practice is that the Convention has direct effect, though this may depend on legal regime.</li> </ul>	Yes, Switzerland is a monist country. If a norm is self-executing it has <b>direct effect</b> .	For the official government position the information provided by the Federal Department of Foreign Affairs (FDFA) see: <a href="https://www.eda.admin.ch/eda/en/home/foreign-policy/international-law/respect-promotion/national-international-law.html">https://www.eda.admin.ch/eda/en/home/foreign-policy/international-law/respect-promotion/national-international-law.html</a>  On the direct effect of the 1954 Convention, see also: BGE, X. gegen Bundesamt für Migration, 2C_763/2008, 26 March 2009, E.1.4, <a href="https://entscheide.weblaw.ch/cache.php?link=26.03.2009_2C_763-2008&amp;q=&amp;sel_lang=de">https://entscheide.weblaw.ch/cache.php?link=26.03.2009_2C_763-2008&amp;q=&amp;sel_lang=de</a>
IOB	2	a	1961 Convention	Is your country party to the 1961 Stateless-	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention on the Reduction of Stateless-</a></li> </ul>	No	United Nations Treaty Collection, <a href="https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&amp;mt_d">https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&amp;mt_d</a>

				ness Convention?	<a href="#">ness, 1961</a>		<a href="#">sg_no=V-4&amp;chapter=5&amp;clang= en</a>
IOB	2	b		If yes, when was ratification/accession?		<i>Does not apply.</i>	
IOB	2	c		Are there reservations in place? Please list them.	As above	<i>Does not apply.</i>	
IOB	2	d		Does the Convention have direct effect?	As above	<i>Does not apply.</i>	
IOB	3	a	Other conventions	State party to European Convention on Nationality 1997? Are there reservations in place? Please list them.	• <a href="#">European Convention on Nationality, 1997</a>	No	Council of Europe Treaty Office: <a href="http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/166/signatures?p_auth=4UYTHUJV">http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/166/signatures?p_auth=4UYTHUJV</a>
IOB	3	b		State Party to European Convention on Human Rights 1950? Are there reservations in place? Please list them.	• <a href="#">European Convention on Human Rights, 1950</a>	<b>Yes.</b> No, there are <b>no reservations</b> in place.	<a href="https://www.admin.ch/opc/de/classified-compilation/19500267/index.html">https://www.admin.ch/opc/de/classified-compilation/19500267/index.html</a> (DE) <a href="https://www.admin.ch/opc/fr/classified-compilation/19500267/index.html">https://www.admin.ch/opc/fr/classified-compilation/19500267/index.html</a> (FR) See also: Council of Europe Treaty Office, <a href="http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/signatures?p_auth=4UYTHUJV">http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/signatures?p_auth=4UYTHUJV</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.	• <a href="#">Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession, 2006</a>	No	Council of Europe Treaty Office, <a href="http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/200/signatures?p_auth=4UYTHUJV">http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/200/signatures?p_auth=4UYTHUJV</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.	• <a href="#">Directive 2008/115/EC of the European Parliament and of the Council (EU Returns Directive)</a>	<b>Yes</b> , Switzerland is bound by Directive 2008/115/EC as part of the Bilateral Agreements between the EU and Switzerland. There are <b>no reservations</b> in place.	<a href="https://www.admin.ch/opc/de/official-compilation/2010/5925.pdf">https://www.admin.ch/opc/de/official-compilation/2010/5925.pdf</a> (DE) <a href="https://www.admin.ch/ch/f/as/2010/5925.pdf">https://www.admin.ch/ch/f/as/2010/5925.pdf</a> (FR)
IOB	3	e		State Party to Convention on the Rights of the Child 1989? Are	• <a href="#">Convention on the Rights of the Child 1989</a>	<b>Yes.</b> Yes, Switzerland currently has <b>three reservations</b> in place concerning Articles 10(1), 37(c)	Article 10 (1) CRC: Swiss legislation, which does not guarantee family reunification to certain categories of aliens, is unaffected. Art. 37 (c) CRC: The separation of children deprived of liberty

				there reservations in place? Please list them.		and 40 CRC. Reservations to Article 5 CRC were withdrawn in 2004, to Article 7 para. 2 in 2007, as Switzerland introduced a provision on the simplified naturalisation of stateless children, and to Article 40 in 2004 and 2007.	from adults is not unconditionally guaranteed. Art. 40 CRC: The Swiss penal procedure applicable to children, which does not guarantee either the unconditional right to assistance or separation, where personnel or organisation is concerned, between the examining authority and the sentencing authority, is unaffected. <a href="https://treaties.un.org/pages/ViewDetails.aspx?src=IND&amp;mtdsg_no=IV-11&amp;chapter=4&amp;lang=en">https://treaties.un.org/pages/ViewDetails.aspx?src=IND&amp;mtdsg_no=IV-11&amp;chapter=4&amp;lang=en</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>	<b>Yes.</b> Yes, Switzerland currently has <b>four reservations</b> in place concerning Articles 12(1), 20, 25(b) and 26 ICCPR. Reservations were withdrawn with regard to Article 20, paragraph 2 (1995), Article 14, paragraph 3, sub-paragraphs (d) and (FR) (2004), Article 10, paragraph 2 (b) (2007) and Article 14, paragraph 1 and 5 (2007).	Art. 12 (1): The right to liberty of movement and freedom to choose one's residence is applicable, subject to the federal laws on aliens, which provide that residence and establishment permits shall be valid only for the canton which issues them. Art. 20: Switzerland reserves the right not to adopt further measures to ban propaganda for war, which is prohibited by article 20, paragraph 1. Art. 25 (b): The present provision shall be applied without prejudice to the cantonal and communal laws, which provide for or permit elections within assemblies to be held by a means other than secret ballot. Art. 26: The equality of all persons before the law and their entitlement without any discrimination to the equal protection of the law shall be guaranteed only in connection with other rights contained in the present Covenant. <a href="https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&amp;mtdsg_no=IV-4&amp;chapter=4&amp;clang=en">https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&amp;mtdsg_no=IV-4&amp;chapter=4&amp;clang=en</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>	<b>Yes.</b> No, there are <b>no reservations</b> in place.	<a href="https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&amp;mtdsg_no=IV-3&amp;chapter=4&amp;clang=en">https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&amp;mtdsg_no=IV-3&amp;chapter=4&amp;clang=en</a>
IOB	3	h		State Party to Convention on the Elimination of all Forms of Discrimination Against Women 1979? Are there reservations in place?	<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</a></li> </ul>	<b>Yes.</b> Yes, Switzerland currently has <b>two reservations</b> in place concerning Articles 15(2) and 16(1)(h) CEDAW. Reservations were withdrawn with regard to Article 7 (b) (2004) and Article	Art. 15(2) and 16(1)(h): Said provisions shall be applied subject to several interim provisions of the matrimonial regime (Civil Code, articles 9 (e) and 10, final section). <a href="https://treaties.un.org/pages/viewdetails.aspx?src=treaty&amp;mtdsg_no=iv-8&amp;chapter=4&amp;lang=en">https://treaties.un.org/pages/viewdetails.aspx?src=treaty&amp;mtdsg_no=iv-8&amp;chapter=4&amp;lang=en</a>

				Please list them.	<a href="#">of refugee status, asylum, nationality and statelessness.</a>	16, paragraph 1 (DE) (2013).	
IOB	3	i		State Party to Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> <li>• <a href="#">Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984</a></li> </ul>	<b>Yes.</b> No, there are <b>no reservations</b> in place.	<a href="https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&amp;mtdsg_no=IV-9&amp;chapter=4&amp;lang=en">https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&amp;mtdsg_no=IV-9&amp;chapter=4&amp;lang=en</a>
IOB	3	j		State Party to International Convention on the Elimination of All Forms of Racial Discrimination 1965? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> <li>• <a href="#">International Convention on the Elimination of All Forms of Racial Discrimination 1965</a></li> </ul>	<b>Yes.</b> Yes, Switzerland currently has <b>two reservations</b> in place concerning Articles 4 and 2(1)(a) CERD.	<p>Art. 4: Switzerland reserves the right to take the legislative measures necessary for the implementation of article 4, taking due account of freedom of opinion and freedom of association, provided for <i>inter alia</i> in the Universal Declaration of Human Rights.</p> <p>Art. 2(1)(a): Switzerland reserves the right to apply its legal provisions concerning the admission of foreigners to the Swiss market.</p> <p><a href="https://treaties.un.org/pages/ViewDetails.aspx?src=IND&amp;mtdsg_no=IV-2&amp;chapter=4&amp;lang=en">https://treaties.un.org/pages/ViewDetails.aspx?src=IND&amp;mtdsg_no=IV-2&amp;chapter=4&amp;lang=en</a></p>
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>	<b>No.</b>	<a href="https://treaties.un.org/Pages/ViewDetails.aspx?chapter=4&amp;lang=en&amp;mtdsg_no=IV-13&amp;src=IND">https://treaties.un.org/Pages/ViewDetails.aspx?chapter=4&amp;lang=en&amp;mtdsg_no=IV-13&amp;src=IND</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. State Secretariat for Migration (SEM) reports <b>555 persons recognised as stateless as at 31 August 2018</b> . SEM data is disaggregated by gender or type of residence permit as well as on the Federal and cantonal (sub-state) levels. Federal Statistical Office (FSO) reports <b>461 stateless persons as at 31 December 2017</b> .	<p>SEM Statistics on the total number of non-national residents according to canton and groups as of 31 August 2018:  <a href="https://www.sem.admin.ch/dam/data/sem/publicservice/statistik/auslaenderstatistik/2018/08/2-10-Best-Tot-Kat-d-2018-08.xlsx">https://www.sem.admin.ch/dam/data/sem/publicservice/statistik/auslaenderstatistik/2018/08/2-10-Best-Tot-Kat-d-2018-08.xlsx</a> (DE)</p> <p>FSO Statistics on foreign permanent resident population by citizenship, 1980-2017:  <a href="https://www.bfs.admin.ch/bfsstatic/dam/asset/s/5866926/master">https://www.bfs.admin.ch/bfsstatic/dam/asset/s/5866926/master</a> (DE)</p> <p>The difference in statistics can be explained by the fact that the two authorities use different sources and definitions  <a href="https://www.sem.admin.ch/dam/data/sem/publicservice/statistik/auslaenderstatistik/auslaenderstatistik-lesehinweise-d.pdf">https://www.sem.admin.ch/dam/data/sem/publicservice/statistik/auslaenderstatistik/auslaenderstatistik-lesehinweise-d.pdf</a>, p. 2).</p> <p>SEM data is also disaggregated by age, civil status and length of residence (<i>Aufenthaltssdauer</i>) (see, for example, <a href="https://www.sem.admin.ch/sem/de/home/publicservice/statistik/auslaenderstatistik/archiv/2017/12.html">https://www.sem.admin.ch/sem/de/home/publicservice/statistik/auslaenderstatistik/archiv/2017/12.html</a>).</p>
POP	1	b		Do Govt authorities define categories of persons who may overlap with stateless (e.g. unknown nationality, unspecified nationality, other)? Are statistics on these available? If, yes, please indicate	As above	Yes and no. The Government uses different terms, but the definitions are not publicly available. SEM uses the categories “ <b>stateless</b> ”, “ <b>without nationality</b> ” ( <i>ohne Nationalität</i> ) and “ <b>state unknown</b> ” ( <i>Staat unbekannt</i> ). FSO uses the categories “ <b>stateless</b> ”, “ <b>not attributable according to current borders</b> ” and “ <b>no indication</b> ”. In the statistics provided by the SEM in August 2018, 555 persons were registered as “stateless”, 197 as “without nation-	<p>SEM Statistics July 2017:  <a href="https://www.sem.admin.ch/sem/de/home/publicservice/statistik/auslaenderstatistik/archiv/2017/07.html">https://www.sem.admin.ch/sem/de/home/publicservice/statistik/auslaenderstatistik/archiv/2017/07.html</a> (DE)</p> <p>FSO Statistics on foreign permanent resident population by citizenship, 1980-2017:  <a href="https://www.bfs.admin.ch/bfsstatic/dam/asset/s/5866926/master">https://www.bfs.admin.ch/bfsstatic/dam/asset/s/5866926/master</a> (DE)</p>



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				categories and statistics.		ality”, including 3 non-residents, and 917 as “state unknown”. Yes, statistics on these categories are available.	
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	UNHCR Global Trends 2017 lists 62 stateless persons in Switzerland, not including stateless persons who are refugees. There is no estimate for the at-risk population.	UNHCR Global Trends 2017, Annex Table 1: <a href="http://www.unhcr.org/statistics/unhcrstats/5b27be547/unhcr-global-trends-2017.html">http://www.unhcr.org/statistics/unhcrstats/5b27be547/unhcr-global-trends-2017.html</a> UNHCR's source for information is SEM ( <a href="http://www.unhcr.org/dach/ch-de/ueber-uns/zahlen-im-ueberblick">http://www.unhcr.org/dach/ch-de/ueber-uns/zahlen-im-ueberblick</a> ).
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, not really. In national statistics, immigrants are listed by nationality and not by ethnicity. Normally minorities such as Kurds are registered by country of origin rather than ethnicity. Additionally, Palestine and Tibet are not included as countries of origin. In response to a Parliamentary Question, the Federal Council clarified that the SEM instructed cantonal migration authorities to harmonise the data provided for <b>Chinese nationals of Tibetan ethnicity</b> , in part, because Switzerland does not recognise Tibet as a country. Persons who have been recognised as stateless though should not be affected by this change. It is more likely that stateless persons who are not yet recognised are recorded as “without nationality” or as “State unknown” in the SEM's statistics as outlined above.	Parliamentary Question of 21 September 2016 on the information stated on identity documents for Tibetan refugees (16.5439): „Bis vor Kurzem verwendeten die Schweizer Behörden in den Identitätsausweisen für Tibeterinnen und Tibeter die Herkunftsangaben "staatenlos", "Tibetischen Ursprungs" oder "Tibet (China)". Diese Praxis wurde geändert, heute wird bei Erneuerung der Ausweise die Herkunft "China" eingetragen. - Welche Gründe haben zur Praxisänderung geführt? - Welchen Nutzen ziehen die Behörden aus dieser neuen Bezeichnung? - Unter welchen Voraussetzungen könnte wieder zu den bisherigen Herkunftsbezeichnungen zurückgekehrt werden? <u>Antwort des Bundesrates vom 26.9.2016:</u> Das Staatssekretariat für Migration hat am 9. Juni 2015 die kantonalen Migrationsämter damit beauftragt, die Angabe der Staatsangehörigkeit auf Ausländerausweisen von chinesischen Staatsangehörigen tibetischer



							<p><i>Ethnie zu harmonisieren. In den betreffenden Ausländerausweisen wurden seit mehreren Jahren sowohl China als auch Tibet als Staatsangehörigkeit aufgeführt. Die Schweiz anerkennt Tibet nicht als Staat; entsprechend kann auch nicht von einer tibetischen Staatsangehörigkeit gesprochen werden. Es handelt sich daher bei der früheren Bezeichnung der Staatsangehörigkeit um einen Erfassungsfehler der Verwaltung, der nun korrigiert werden musste. Mit dieser Korrektur sind keinerlei Änderungen des Aufenthaltsstatus der betroffenen Personen verbunden. Personen, welche von der Schweiz als Staatenlose anerkannt wurden, sind von der Korrektur selbstverständlich nicht betroffen.“</i></p> <p><a href="https://www.parlament.ch/de/ratsbetrieb/suche-curia-vista/geschaeft?AffairId=20165439">https://www.parlament.ch/de/ratsbetrieb/suche-curia-vista/geschaeft?AffairId=20165439</a></p>
POP	1	e		Have there been surveys or mapping studies done to estimate the population of stateless persons in the country?	<p><a href="#">UNHCR Global Action Plan to End Statelessness 2014-2024: Action 10</a></p>	<p>There have been no surveys or studies done by official authorities. UNHCR Switzerland published a mapping study in November 2018.</p>	<p>UNHCR Brochure on Statelessness in Switzerland and Liechtenstein of December 2016: <a href="http://www.unhcr.org/dach/ch-de/was-wir-tun/staatenlosigkeit-beenden/staatenlosigkeit-in-der-schweiz-und-in-liechtenstein">http://www.unhcr.org/dach/ch-de/was-wir-tun/staatenlosigkeit-beenden/staatenlosigkeit-in-der-schweiz-und-in-liechtenstein</a> (DE)</p> <p>UNHCR, Staatenlosigkeit in der Schweiz, Nov 2018: <a href="https://www.unhcr.org/dach/wp-content/uploads/sites/27/2018/11/CH_UNHCR-Statelessness_in_Switzerland-GER-screen.pdf">https://www.unhcr.org/dach/wp-content/uploads/sites/27/2018/11/CH_UNHCR-Statelessness_in_Switzerland-GER-screen.pdf</a> (DE)</p> <p>UNHCR, Résumé et recommandations: L'apatride en Suisse, Nov 2018 : <a href="https://www.refworld.org/cgi-bin/tehis/vtx/rwmain/opendocpdf.pdf?reldoc=y&amp;docid=5c4f20974">https://www.refworld.org/cgi-bin/tehis/vtx/rwmain/opendocpdf.pdf?reldoc=y&amp;docid=5c4f20974</a> (FR)</p>
POP	1	f		Are there other sources of estimates for the population of	As above	<p>No. However, there have been studies that estimate the number of undocumented migrants, those who lack a residence permit to reside legally in CH.</p>	<p><b>Sans-Papiers in der Schweiz: Studie 2015</b>, B,S,S. Volkswirtschaftliche Beratung AG, Basel, Schweizerisches Forum für Migrations- und Bevölkerungsstudien (Universität Neuchâtel),</p>

				stateless persons (not covered by the above)? If so, list sources and figures.		<p>But there is no research to what extent there may be stateless persons in this group.</p> <p>A 2015 study estimated that there are approximately 76,000 undocumented migrants from third countries (non-EU/EFTA) residing without a residence permit in Switzerland. Other studies have given much higher estimates up to 180,000. It is unclear to what extent these individuals or their children may be stateless. Reportedly, many undocumented migrants are from Central and South American countries. There is anecdotal evidence that children born in Switzerland to parents from jus soli countries in the Americas may be stateless.</p>	<p>Universität Genf  <a href="https://www.sem.admin.ch/dam/data/sem/internationales/illegale-migration/sans_papiers/ber-sanspapiers-2015-d.pdf">https://www.sem.admin.ch/dam/data/sem/internationales/illegale-migration/sans_papiers/ber-sanspapiers-2015-d.pdf</a></p> <p>Definition employed in the 2015 study:  <i>“Folgende Definition von Sans-Papiers liegt dem Bericht zugrunde: Sans-Papiers sind Personen, die sich ohne Aufenthaltsberechtigung, mehr als einen Monat, und für eine nicht absehbare Zeit in der Schweiz aufhalten. Darunter fallen sowohl Personen, die zuvor einen gültigen Aufenthaltstitel hatten, wie auch solche, die nie eine entsprechende Bewilligung erhalten haben.”</i> (p. 1)</p> <p><b>Leben als Sans-Papiers in der Schweiz.</b>  <b>Entwicklungen 2000-2010</b>, Eidgenössische Kommission für Migrationsfragen EKM, 2010:  <a href="https://www.ekm.admin.ch/content/dam/data/ekm/dokumentation/materialien/mat_sanspa_p_d.pdf">https://www.ekm.admin.ch/content/dam/data/ekm/dokumentation/materialien/mat_sanspa_p_d.pdf</a></p> <p><b>For the situation of South Americans in Switzerland</b> see for example journalism at TV Bordo Net:  <a href="https://www.youtube.com/watch?v=Om_veJ3a6ZE">https://www.youtube.com/watch?v=Om_veJ3a6ZE</a></p> <p>Information on stateless persons is also included in <b>SEM’s naturalisation statistics</b>. For example, <i>Erwerb Schweizer Bürgerrecht nach Nationalität vom 1.1.2017 bis am 31.7.2017</i>,  <a href="https://www.sem.admin.ch/sem/de/home/publiservice/statistik/auslaenderstatistik/archiv/2017/07.html">https://www.sem.admin.ch/sem/de/home/publiservice/statistik/auslaenderstatistik/archiv/2017/07.html</a></p>
POP	1	g		Are there issues with reliability of stateless data? If yes, please describe why.	As above	<p>Yes. There are 3 different categories of identified persons who could be stateless and others who may not have contact with the authorities yet. Also, different data provided by SEM and Fed-</p>	

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POP	1	h		Are there indications that the stateless population is either over or under reported? Please describe.	As above	eral Statistical Office.	
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	Yes. It is likely under reported due to lack of awareness, lack of a formal SDP, restrictive recognition practice, lack of specialised legal advisory services and lack of relevant training of state officials.	
POP	2	a	Stateless in Detention data	Number of stateless persons in immigration detention	As above and see also norms in Detention section.	According to statistics provided by SEM for August 2018 there are 46 stateless persons, 599 persons “without nationality” and 629 persons “state unknown” in the asylum procedure. For the same period, the SEM statistics count 181 stateless persons, 3 “without nationality”, 540 “state unknown” recognised as refugees, 10 stateless persons, 151 “without nationality” and 141 “state unknown” with the status of asylum seekers; 36 stateless persons, 448 “without nationality” and 488 “state unknown” with the status of temporary admission.	SEM Statistics as per 31 August 2018 (DE): The entire asylum procedure: <a href="https://www.sem.admin.ch/dam/data/sem/publiservice/statistik/asylstatistik/2018/08/6-10-Best-Asylprozess-d-2018-08.xlsx">https://www.sem.admin.ch/dam/data/sem/publiservice/statistik/asylstatistik/2018/08/6-10-Best-Asylprozess-d-2018-08.xlsx</a> Recognised refugees: <a href="https://www.sem.admin.ch/dam/data/sem/publiservice/statistik/asylstatistik/2018/08/6-23-Best-Fluechtlinge-B-Erwerb-d-2018-08.xlsx">https://www.sem.admin.ch/dam/data/sem/publiservice/statistik/asylstatistik/2018/08/6-23-Best-Fluechtlinge-B-Erwerb-d-2018-08.xlsx</a> Asylum seekers: <a href="https://www.sem.admin.ch/dam/data/sem/publiservice/statistik/asylstatistik/2018/08/6-21-Best-N-Erwerb-d-2018-08.xlsx">https://www.sem.admin.ch/dam/data/sem/publiservice/statistik/asylstatistik/2018/08/6-21-Best-N-Erwerb-d-2018-08.xlsx</a> Temporary admission: <a href="https://www.sem.admin.ch/dam/data/sem/publiservice/statistik/asylstatistik/2018/08/6-22-Best-VA-Erwerb-d-2018-08.xlsx">https://www.sem.admin.ch/dam/data/sem/publiservice/statistik/asylstatistik/2018/08/6-22-Best-VA-Erwerb-d-2018-08.xlsx</a>
POP	2	a				Statistics on immigration detention are not publicly available. Moreover, as immigration detention is a cantonal competence, the federal authorities rely on information provided by the Cantons. The SEM only publishes statistics on enforcement support for individuals leaving Switzerland without going through the asylum procedure or after a negative asylum decision as well as the number of persons removed under a readmission agreement. This can include persons in immigration	SEM Statistics on enforcement support in 2017 (up to August): <a href="https://www.sem.admin.ch/dam/data/sem/publiservice/statistik/asylstatistik/2017/08/7-80-Bew-VU-J-d-2017-08.xlsx">https://www.sem.admin.ch/dam/data/sem/publiservice/statistik/asylstatistik/2017/08/7-80-Bew-VU-J-d-2017-08.xlsx</a>  SEM Statistics on transfers under a readmission agreement in 2017 (up to August): <a href="https://www.sem.admin.ch/dam/data/sem/publiservice/statistik/asylstatistik/2017/08/7-55-Bew-RueA-J-d-2017-08.xlsx">https://www.sem.admin.ch/dam/data/sem/publiservice/statistik/asylstatistik/2017/08/7-55-Bew-RueA-J-d-2017-08.xlsx</a>

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						detention.	
POP	2	b		Are there statistics on individuals released from immigration detention who were un-removable, their country of origin and length of detention? If yes, please provide.	As above	No information available.	

## 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>	No, there is no definition in national law. In principle the 1954 Convention definition applies, and the SEM applies Art. 1(1) 1954 Convention directly. However, according to Swiss interpretation, stateless persons must have lost their nationality through no fault of their own and have no means of reinstating it to be recognised, which differs from the 1954 Convention. All persons who, allegedly, would have the possibility of receiving assistance from another UN agency are excluded from the definition. Swiss Courts have held this interpretation to be compatible with the 1954 Convention. Moreover, recognition as a stateless person requires demonstration of an interest worthy of protection ( <i>schutzwürdiges Interesse</i> ), i.e. the applicant must substantiate that they would be in a better position if recognised as stateless. The practice of the SEM in this regard is very restrictive. In its third cycle of Universal Periodic Review Switzerland accepted a recommendation by Hungary to ensure that the definition of a stateless person is fully consistent with the 1954 Convention.	<p>Information provided by SEM: <a href="https://www.sem.admin.ch/sem/en/home/asyl/asylverfahren/weitere_themen/staatenlosigkeit.html">https://www.sem.admin.ch/sem/en/home/asyl/asylverfahren/weitere_themen/staatenlosigkeit.html</a></p> <p>SEM Instruction, p. 6 ff.: <a href="https://www.sem.admin.ch/dam/data/sem/asyl/verfahren/hb/f/hb-f5-f.pdf">https://www.sem.admin.ch/dam/data/sem/asyl/verfahren/hb/f/hb-f5-f.pdf</a> (FR)</p> <p>Federal Tribunal: <i>X. gegen Bundesamt für Migration</i>, 2C_36/2012, 10 May 2012: <a href="http://www.servat.unibe.ch/dfr/bger/120510_2C_36-2012.html">http://www.servat.unibe.ch/dfr/bger/120510_2C_36-2012.html</a> (DE)</p> <p>A.X. et al. v. Office fédéral des migrations, 2C_1/2008, 26 March 2009 : <a href="http://www.servat.unibe.ch/dfr/bger/080228_2C_1-2008.html">http://www.servat.unibe.ch/dfr/bger/080228_2C_1-2008.html</a> (FR)</p> <p>For the application of the exclusion clause in Art. 1(2)(i) 1954 Convention, see, for example, Federal Administrative Court, <i>A., B., C., D. gegen Bundesamt für Migration (BFM)</i>, C-6841/2008, 7 July 2011: <a href="http://links.weblaw.ch/BVGer-C-6841/2008">http://links.weblaw.ch/BVGer-C-6841/2008</a> (DE): The FAC ruled that Palestinians registered with UNRWA were still receiving UNRWA protection in Switzerland as they could obtain travel documents, so the 1954 Convention would not apply to them.</p> <p>ISI, Universal Periodic Review – 28th Session: overview and analysis of recommendations on the right to a nationality and statelessness, Nov. 2017: <a href="http://www.institutesi.org/UPR28_stateless.pdf">http://www.institutesi.org/UPR28_stateless.pdf</a></p>
IDP	1	b	Existence of a dedicated SDP	Which of the following best describes the situation in your country?	<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</li> </ul>	#1 - There is a procedure to determine statelessness, but it is not a dedicated, formalised procedure in law. The procedure is governed by the general administrative procedure and administrative guidance and initiated upon	<p>SEM Instruction on Asylum and Return, <a href="https://www.sem.admin.ch/dam/data/sem/asyl/verfahren/hb/f/hb-f5-f.pdf">https://www.sem.admin.ch/dam/data/sem/asyl/verfahren/hb/f/hb-f5-f.pdf</a> (FR); <a href="https://www.sem.admin.ch/dam/data/sem/asyl/verfahren/hb/f/hb-f5-d.pdf">https://www.sem.admin.ch/dam/data/sem/asyl/verfahren/hb/f/hb-f5-d.pdf</a> (DE)</p>

				<p>1. There is a <b>dedicated Statelessness determination procedure (SDP)</b> established in law, administrative guidance, or judicial procedure.</p>	<p>as to provide them appropriate treatment in order to comply with their Convention commitments.</p> <ul style="list-style-type: none"> <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> <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 among Member States concerning... procedures for determining statelessness.</li> </ul>	<p>application.</p>	<p>See also: <a href="https://www.sem.admin.ch/sem/en/home/asyl/asylverfahren/weitere_themen/staatenlosigkeit.html">https://www.sem.admin.ch/sem/en/home/asyl/asylverfahren/weitere_themen/staatenlosigkeit.html</a> (EN)</p>
IDP	2	a		<p>You have identified that your country has a dedicated SDP established in law, administrative guidance or judicial procedure. Which authority is responsible for determining statelessness?</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>: There is no general rule for appointing the most appropriate authority for statelessness determination... the structure must be evaluated in light of the specific national circumstances.</li> </ul>	<p>The State Secretariat for Migration (SEM).</p>	<p>Article 14(3) Ordonnance on the organisation of the Federal Department of Justice and Police <a href="https://www.admin.ch/opc/fr/classified-compilation/19995987/index.html#a14">https://www.admin.ch/opc/fr/classified-compilation/19995987/index.html#a14</a> (FR) See also SEM Instruction, p. 6: <a href="https://www.sem.admin.ch/dam/data/sem/asyl/verfahren/hb/f/hb-f5-f.pdf">https://www.sem.admin.ch/dam/data/sem/asyl/verfahren/hb/f/hb-f5-f.pdf</a> (FR), <a href="https://www.sem.admin.ch/sem/en/home/asyl/asylverfahren/weitere_themen/staatenlosigkeit.html">https://www.sem.admin.ch/sem/en/home/asyl/asylverfahren/weitere_themen/staatenlosigkeit.html</a> (EN)</p>
IDP	2	b	Access to procedures	<p>Must an application for statelessness status be made on a specific form? Are there clear instructions on how to make a claim for statelessness or how to fill in the relevant</p>	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: For procedures to be fair and efficient, access to them must be ensured. Dissemination of information, including through targeted information campaigns where appropriate and counselling on the procedures, facilitates access... Given that individuals are sometimes unaware</li> </ul>	<p>An applicant must submit a written reasoned application including evidence. There is little information on how to make a claim besides a guidance document published by the SEM. This information is, however, very difficult to access for individuals as it is aimed at government officials and uses very technical language. There is no public awareness raising to facilitate access to the procedure.</p>	<p>SEM Instruction, p. 9 ff: <a href="https://www.sem.admin.ch/dam/data/sem/asyl/verfahren/hb/f/hb-f5-f.pdf">https://www.sem.admin.ch/dam/data/sem/asyl/verfahren/hb/f/hb-f5-f.pdf</a> (FR) Additional Information provided by SEM: <a href="https://www.sem.admin.ch/sem/en/home/asyl/asylverfahren/weitere_themen/staatenlosigkeit.html">https://www.sem.admin.ch/sem/en/home/asyl/asylverfahren/weitere_themen/staatenlosigkeit.html</a> (EN)</p>

				forms?	<p>of SDPs or hesitant to apply...procedures can usefully contain safeguards permitting State authorities to initiate a procedure.</p> <ul style="list-style-type: none"> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: Accepted that good practice existed in countries where applications were accepted orally or in writing and in any language.</li> <li>• <a href="#">ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices</a>: Bureaucratic difficulties (such as complicated application forms, inflexible procedures, strict language requirements, limited places where claims can be submitted, high costs, etc.) can encumber, or even impede access to SDPs. The protection-oriented framework therefore requires a flexible interpretation of such rules, especially since the majority of the population of concern may be in a vulnerable position and may not have the necessary language skill, financial means or possibility to travel that may be justifiably expected in other types of standard administrative procedures.</li> <li>• <a href="#">ENS (2016), Protecting Stateless Persons from Arbitrary Detention in the United Kingdom</a>: Any application form to apply for stateless status should be simplified and offered in a variety of languages... [and] made freely available, including in immigration detention centres.</li> </ul>		
IDP	2	c		Do submissions	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>:</li> </ul>	The application must be submitted in one of	Article 33a Administrative Procedure Act (APA)



				and/or other written evidence have to be submitted in the native language?	As above.	the Swiss official languages (German, French, or Italian). Documents in other languages in principle must be submitted with a certified translation. Exceptionally, the authority can accept documents in other languages.	<a href="https://www.admin.ch/opc/fr/classified-compilation/19680294/index.html#a33a">https://www.admin.ch/opc/fr/classified-compilation/19680294/index.html#a33a</a> (FR) See also: <a href="https://www.sem.admin.ch/sem/en/home/asyl/asylverfahren/weitere_themen/staatenlosigkeit.html">https://www.sem.admin.ch/sem/en/home/asyl/asylverfahren/weitere_themen/staatenlosigkeit.html</a> (EN)
IDP	2	d		Can an application for statelessness status be made orally to a public official?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: As above.</li> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: Given that individuals are sometimes unaware of SDPs or hesitant to apply for statelessness status, procedures can usefully contain safeguards permitting State authorities to initiate a procedure.</li> </ul>	No. The application must be submitted in writing.	SEM Instruction, p. 9 ff: <a href="https://www.sem.admin.ch/dam/data/sem/asyl/verfahren/hb/f/hb-f5-f.pdf">https://www.sem.admin.ch/dam/data/sem/asyl/verfahren/hb/f/hb-f5-f.pdf</a> (FR), <a href="https://www.sem.admin.ch/sem/en/home/asyl/asylverfahren/weitere_themen/staatenlosigkeit.html">https://www.sem.admin.ch/sem/en/home/asyl/asylverfahren/weitere_themen/staatenlosigkeit.html</a> (EN)
IDP	2	e		Are there obligations in law on authorities to consider the application?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: access to the SDP must be guaranteed.</li> </ul>	Yes, if an application has been submitted it has to be considered by the authority responsible. If it is formally correct, the merits must be considered.	Article 29 Swiss Constitution: <a href="https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a29">https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a29</a> (EN) Article 29 Administrative Procedure Act <a href="https://www.admin.ch/opc/en/classified-compilation/19680294/index.html#a29">https://www.admin.ch/opc/en/classified-compilation/19680294/index.html#a29</a> (EN)
IDP	2	f		Are government authorities authorized to initiate SDPs <i>ex officio</i> ?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: ...it is recommended that governmental authorities be authorized to initiate these procedures <i>ex officio</i>...</li> <li>• <a href="#">ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices</a>: as above.</li> </ul>	No, the SDP cannot be initiated <i>ex officio</i> .	SEM Instruction, p. 9 ff: <a href="https://www.sem.admin.ch/dam/data/sem/asyl/verfahren/hb/f/hb-f5-f.pdf">https://www.sem.admin.ch/dam/data/sem/asyl/verfahren/hb/f/hb-f5-f.pdf</a> (FR), <a href="https://www.sem.admin.ch/sem/en/home/asyl/asylverfahren/weitere_themen/staatenlosigkeit.html">https://www.sem.admin.ch/sem/en/home/asyl/asylverfahren/weitere_themen/staatenlosigkeit.html</a> (EN)
IDP	2	g		Is there an application fee?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: access to the SDP must be guaranteed.</li> </ul>	No, the procedure is free of charge.	No legal basis, not explicitly stated in the instruction.
IDP	2	h		Is there a requirement for lawful stay in order to access SDP?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: Access to the procedure needs to be open to anyone who claims to be stateless, regardless of whether or not that person already has lawful</li> </ul>	No, there is no requirement for lawful stay to access the SDP, but there is a dispute in legal scholarship as to whether a person recognised as stateless is only granted a residence permit if he or she has been staying lawfully.	For the requirement of lawful stay in order to be granted a permit see Article 31(1) Foreign Nationals Act (FNA): <a href="https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a31">https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a31</a> (EN)

					<p>stay or residence in the country.</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>: Everyone in a state's territory must have access to SDPs. There is no basis in the 1954 Convention for requiring that applicants for statelessness determination be lawfully within a state.</li> </ul>	<p>This has so far not been decided in court. Swiss law does not grant a right to stay during the SDP. In practice, recognised stateless persons do not seem to have difficulties obtaining a residence permit.</p>	
IDP	2	i		<p>Is there a time limit beyond which a person cannot access the SDP procedure? If so, what is this and can the requirement be waived?</p>	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: For procedures to be fair and efficient, and to ensure that all stateless persons benefit from the implementation of the 1954 Convention, access to the SDP must be guaranteed and not subject to time limits.</li> <li>• <a href="#">ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices</a>: There is... no basis in the 1954 Convention to set time limits for individuals to claim stateless status...</li> </ul>	<p>No, there is no time limit.</p>	
IDP	2	j		<p>Is the examination of statelessness claims conducted by a dedicated centralised body with relevant expertise? If yes, please specify.</p>	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: States may choose between a centralized procedure or one that is conducted by local authorities. Centralized procedures are preferable as they are more likely to develop the necessary expertise among the officials undertaking status determination.</li> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: Where to situate SDPs institutionally is a matter of State discretion and can vary from one country to the</li> </ul>	<p>The examination is conducted by the SEM, which is the centralised immigration authority on federal level. Within the SEM there is no specific division on statelessness. Applications are handled by the two <i>Aufenthalt</i> sections under the Asylum Division.</p>	<p>SEM Instruction, p. 9 ff:  <a href="https://www.sem.admin.ch/dam/data/sem/asyl/verfahren/hb/f/hb-f5-f.pdf">https://www.sem.admin.ch/dam/data/sem/asyl/verfahren/hb/f/hb-f5-f.pdf</a> (FR)            SEM organizational chart:  <a href="https://www.sem.admin.ch/dam/data/sem/ueberuns/organisation/organigramm-sem-e.pdf">https://www.sem.admin.ch/dam/data/sem/ueberuns/organisation/organigramm-sem-e.pdf</a> (EN)  <a href="https://www.sem.admin.ch/dam/data/sem/ueberuns/organisation/organigramm-sem-d.pdf">https://www.sem.admin.ch/dam/data/sem/ueberuns/organisation/organigramm-sem-d.pdf</a> (DE)</p>

					<p>next. Regardless...it is important that examiners develop expertise... while ensuring that the procedures are accessible...</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>		
IDP	2	k		<p>Is there training to inform different governmental bodies about statelessness and SDPs? If yes, please provide details (e.g. who provides training to whom and how often?)</p>	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR Executive Committee, Conclusion on Identification, Prevention and Reduction of Statelessness and Protection of Stateless Persons No. 106 (LVII) – 2006</a>: Requests UNHCR to actively disseminate information and, where appropriate, train government counterparts on appropriate mechanisms for identifying, recording, and granting a status to stateless persons.</li> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: Training sessions for officials and meetings between the various decentralized bodies, UNHCR and civil society take place on a regular basis, allowing for an exchange of information and discussion of trends and common challenges.</li> </ul>	No information available.	
IDP	2	l		<p>Is there cooperation between agencies that may come into contact with stateless persons? If so, how are cases referred to the</p>	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: good practice identified as cooperation between actors working on statelessness and the various government agencies involved in determining statelessness.</li> </ul>	Only on an informal level within the SEM, e.g. between officials dealing with asylum applications that can inform someone about the possibility to lodge an application for statelessness determination. There is no information available on cooperation between e.g. cantonal immigration authorities and the SEM on statelessness issues.	

				appropriate authority for determination?			
IDP	3	a	Assessment	Who has the burden of proof in the SDP? Is this shared in practice, even if not in law?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: ...the burden of proof is in principle shared, in that both the applicant and examiner must cooperate to obtain evidence and to establish the facts.</li> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: SDPs present unique evidentiary considerations. Given the nature of statelessness, individuals are often unable to substantiate a claim with documentary evidence... SDPs must therefore take into consideration the difficulties inherent in proving statelessness. UNHCR recommends that SDPs provide for a shared burden of proof between the applicant.</li> <li>• <a href="#">ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices</a>: The applicant has a duty to provide as full and truthful account...as possible and to submit all evidence reasonably available. Similarly, the determination authority is required to obtain and present all relevant evidence reasonably available to it...Given the nature of statelessness, applicants ...are often unable to substantiate the claim with much, if any, documentary evidence... authorities need to take this into account, where appropriate giving sympathetic consideration to testimonial explanations regarding the absence of certain</li> </ul>	In principle, the SEM must establish the facts. The applicant has a duty to cooperate. In practice the burden of proof is primarily on the applicant who must provide documents that he or she is stateless.	<p>Article 12 ff. APA  <a href="https://www.admin.ch/opc/en/classified-compilation/19680294/index.html#a12">https://www.admin.ch/opc/en/classified-compilation/19680294/index.html#a12</a> (EN)  Judgment of the Federal Administrative Court, F-6073/2014, 6 April 2017 of 2017/04/06  <a href="http://www.bvger.ch/publiws/download?decisionId=7c8df117-97c7-4f84-ad7c-7750168f3652">http://www.bvger.ch/publiws/download?decisionId=7c8df117-97c7-4f84-ad7c-7750168f3652</a> (DE). For a summary of the judgment in English, see: <a href="http://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&amp;docid=59394f1c4">http://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&amp;docid=59394f1c4</a>.</p> <p>The FAC states that due to the lack of identity documents, A and B's identities and origins have not been sufficiently established. In the case at hand, only A and B could substantiate their identities and nationalities respectively to obtain identity documents and passports from their countries of origin.</p>

					<p>kinds of evidence.</p> <ul style="list-style-type: none"> <li>• <a href="#">UNHCR Expert Meeting, Statelessness Determination Procedures and the Status of Stateless Persons 2010</a>: It is incumbent on individuals to cooperate to establish relevant facts. If an individual can demonstrate, on the basis of all reasonably available evidence, that he or she is evidently not a national, then the burden should shift to the State to prove that the individual is a national of a State.</li> </ul>		
IDP	3	b		<p>What is the standard of proof? Is it the same as in asylum applications?</p>	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: States are...advised to adopt the same standard of proof as that required in refugee status determination, namely, a finding of statelessness would be warranted where it is established to a “reasonable degree” that an individual is not considered as a national by any State under the operation of its law.</li> <li>• <a href="#">UNHCR, Nationality and Statelessness, Handbook for Parliamentarians No. 22, 2014</a>: Because of the difficulties inherent in proving statelessness, the threshold of evidence required before statelessness is determined should not be too high. States are therefore advised to adopt the same standard of proof as that required in refugee status determination...</li> </ul>	<p>Full proof, i.e. the applicant must prove that he or she is stateless. In asylum applications the standard of proof is at a lower level as it is reduced to credibility. However, Swiss jurisprudence is not entirely consistent on this.</p>	<p>Article 12 APA (as there is no special provision on the standard of proof, the relevant standard is that of full proof):  <a href="https://www.admin.ch/opc/en/classified-compilation/19680294/index.html#a12">https://www.admin.ch/opc/en/classified-compilation/19680294/index.html#a12</a> (EN)</p> <p>BVGer, <a href="#">A., alias B., C., alias D., E., alias F., G., alias H., gegen Staatssekretariat für Migration (SEM)</a>, D-1770/2014, 16. Februar 2015, 5.6; and BVGer, <a href="#">A. gegen Staatssekretariat für Migration (SEM)</a>, D-1912/2014, 8. April 2015, 5.7: „Glaubhaftigkeit“</p> <p>BVGer, <a href="#">A. gegen Staatssekretariat für Migration (SEM)</a>, E-1658/2013, 14. April 2015, 6.1; and BVGer, <a href="#">A. gegen Staatssekretariat für Migration (SEM)</a>, E-1708/2015, 15. April 2015, 3.2: „voller Beweis“</p>
IDP	3	c		<p>Is there respect for specific protection needs and evidentiary challenges presented</p>	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: As a result of discrimination, women might face additional barriers in acquiring relevant documentation,</li> </ul>	<p>Other than for example in the asylum procedure, there is no explicit legal provision addressing the specific protection needs and evidentiary challenges for women and children. There is no information available as to</p>	<p>For the situation in the Asylum Procedure see Article 17(2) Asylum Act  <a href="https://www.admin.ch/opc/fr/classified-compilation/19994776/index.html#a6">https://www.admin.ch/opc/fr/classified-compilation/19994776/index.html#a6</a> (EN) and Article 6 Ordonnance on the Asylum Procedure</p>

				by women, children and people with disabilities in the SDP?	<p>such as birth certificates or other identification documents that would be pertinent to establishing their nationality status... Children, especially unaccompanied children, may face acute challenges in communicating basic facts with respect to their nationality. States...must follow the principle of pursuing the best interests of the child when considering the nationality status and need for statelessness protection of children.</p> <ul style="list-style-type: none"> <li>• <a href="#">Gen. Rec. 32 of CEDAW</a>: Nationality laws may discriminate directly or indirectly against women. Legislative provisions that appear gender neutral may in practice have a disproportionate and negative impact on the enjoyment of the right to nationality by women... Discriminatory laws or practices may lead to women and their children being unable to gain access to documentation that proves their identity and nationality...</li> </ul>	whether this is in practice also done in statelessness procedures.	<a href="https://www.admin.ch/opc/fr/classified-compilation/19994776/index.html#a6">https://www.admin.ch/opc/fr/classified-compilation/19994776/index.html#a6</a> (FR), as well as the relevant SEM Instruction <a href="https://www.sem.admin.ch/dam/data/sem/asyl/verfahren/hb/d/hb-d7-f.pdf">https://www.sem.admin.ch/dam/data/sem/asyl/verfahren/hb/d/hb-d7-f.pdf</a> (FR)
IDP	3	d		Are decision makers presented with clear guidance 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>	The SEM Instruction on statelessness in principle serves as internal guidance for officials. There is no public information available on other internal guidance.	SEM Instruction: <a href="https://www.sem.admin.ch/dam/data/sem/asyl/verfahren/hb/f/hb-f5-f.pdf">https://www.sem.admin.ch/dam/data/sem/asyl/verfahren/hb/f/hb-f5-f.pdf</a> (FR)
IDP	4	a	Procedural	Is there free legal	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on</a></li> </ul>	In principle, free legal aid and representation	Article 29(3) Swiss Constitution

			Protections	aid available during the application?	<p><u><a href="#">Protection of Stateless Persons:</a></u> applicants are to have access to legal counsel; where free legal assistance is available, it is to be offered to applicants without financial means.</p> <ul style="list-style-type: none"> <li>• <u><a href="#">ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices:</a></u> 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>	is available both at first instance and appeals stage. It is, however, conditional on the person concerned not having sufficient means and the case having some prospect of success. In practice, free legal aid is virtually never granted in first instance procedures with the SEM. In first instance asylum procedures the need for free legal aid has been recognised by the legislator, but not for the SDP. At the appeals stage, access to free legal aid is restricted, also in comparison to the asylum procedure.	<p><u><a href="https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a29">https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a29</a></u> (EN)</p> <p>Article 65 Administrative Procedure Act (appeals procedure and first instance procedures)</p> <p><u><a href="https://www.admin.ch/opc/en/classified-compilation/19680294/index.html#a65">https://www.admin.ch/opc/en/classified-compilation/19680294/index.html#a65</a></u> (EN)</p>
IDP	4	b		Is an interview always offered (unless granting without interview)?	<ul style="list-style-type: none"> <li>• <u><a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons:</a></u> The right to an individual interview, and necessary assistance with translation/interpretation throughout the process, are essential to ensure that applicants have the opportunity to present their cases fully...</li> </ul>	No, according to the practice of the SEM the procedure is based on a written application followed by a decision in writing. In exceptional cases, the SEM might conduct an interview. At the appeal stage the procedure is normally also written.	For the appeal stage: Article 41 Law on the Federal Administrative Court <u><a href="https://www.admin.ch/opc/fr/classified-compilation/20010206/index.html#a41">https://www.admin.ch/opc/fr/classified-compilation/20010206/index.html#a41</a></u> (FR)
IDP	4	c		Are interpreters provided for statelessness determination interviews? Are they free of charge?	<ul style="list-style-type: none"> <li>• <u><a href="#">ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices:</a></u> assistance should be available for translation and interpretation in respect of written applications and interviews (good practice is free of charge).</li> </ul>	Applicants must submit documents and submissions in one of the official languages. In practice, the costs for translation are not covered. As the procedure is written, there is no right to an interpreter.	Article 33a <u><a href="https://www.admin.ch/opc/en/classified-compilation/19680294/index.html#a33a">https://www.admin.ch/opc/en/classified-compilation/19680294/index.html#a33a</a></u> (EN)
IDP	4	d		Are there quality assurance audits of the SDP? Does UNHCR participate in the proceedings? Can	<ul style="list-style-type: none"> <li>• <u><a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons:</a></u> States are encouraged... to incorporate the following safeguards: [...] access to UNHCR is guaranteed.</li> </ul>	There is no quality assurance audit of the SDP. UNHCR does not participate in the proceedings and does not have access to files.	



				they access files? Do they play a quality monitoring or training role?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: Quality assurance audits of SDPs are considered good practice.</li> </ul>		
IDP	4	e		Are decisions (refusals and grants) given with reasons? And in writing?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: States are encouraged, therefore, to incorporate the following safeguards: [...] decisions are made in writing with reasons.</li> </ul>	Yes, the decision is written and reasoned.	Article 29(2) Swiss Constitution <a href="https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a29">https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a29</a> (EN) Articles 34 and 35 Administrative Procedure Act <a href="https://www.admin.ch/opc/en/classified-compilation/19680294/index.html#a34">https://www.admin.ch/opc/en/classified-compilation/19680294/index.html#a34</a> (EN)
IDP	4	f		Is there a referral mechanism if an individual has been refused asylum but may be stateless?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: Efficient referral mechanisms should be established... officials who may be in contact with stateless persons need to be trained to identify potential applicants ...and refer them to appropriate channels.</li> <li>• <a href="#">ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices</a>: The regulation should... guarantee that proper cross-referral systems exist for cases where the two determination procedures are not conducted in a joint framework... potentially stateless persons whose asylum claim has been rejected are properly informed about the possibility to claim stateless status.</li> </ul>	In general administrative law an authority must refer a person to the competent authority and procedure. However, this obligation exists only once an application has been formally lodged. If, however, only an unsubstantiated claim is made during the asylum procedure there is no obligation to formally refer the case to the right authority. In such a situation the person might informally be made aware of the possibility to lodge an application for statelessness determination. This is also possible because the SEM is responsible for both asylum and statelessness claims.	Article 7 Administrative Procedure Act <a href="https://www.admin.ch/opc/en/classified-compilation/19680294/index.html#a8">https://www.admin.ch/opc/en/classified-compilation/19680294/index.html#a8</a> (EN)
IDP	5	a	Protection during SDP	Does the applicant have automatic legal admission while their claim for statelessness is assessed? Is expulsion possible during the process? If yes, are	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: An individual awaiting a decision is entitled, at a minimum, to all rights based on jurisdiction or presence in the territory as well as “lawfully in” rights... his or her status must guarantee, inter alia, identity papers, the right to self-employment, free-</li> </ul>	No, there is no automatic legal admission or status during the procedure. For that reason, expulsion is possible during the process. So far, there are no verified reports of such incidents.	

				there verified reports of such incidents?	dom of movement and protection against expulsion... it is recommended that individuals... receive the same standards of treatment as asylum-seekers... • <a href="#">ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices</a> : States should refrain from expelling or removing an individual from their territory pending the outcome of the determination process.		
IDP	5	b		Do applicants for statelessness status who are awaiting a decision have permission to work, if they have no other permission to stay in the country?	• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a> : Allowing individuals...to engage in wage-earning employment...may reduce the pressure on State resources and contributes to the dignity and self-sufficiency of the individuals concerned.	No.	
IDP	5	c		Do applicants for statelessness status with limited means have access to assistance to meet their basic needs (shelter and welfare support)? Please describe.	• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a> : The status of those awaiting statelessness determination must also reflect applicable human rights such as... assistance to meet basic needs.	Yes, even if they do not have a legal right to stay/status during the procedure the Constitution grants everyone, including applicants for stateless status, the right to basic minimum assistance and financial means required for a decent standard of living.	Article 12 Swiss Constitution <a href="https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a12">https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a12</a> (EN)
IDP	5	d		Is it possible to detain an applicant while he/she is in the SDP procedure?	• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a> : Routine detention of individuals seeking protection on the grounds of statelessness is arbitrary... Detention is therefore a measure of last resort and can only be justified	Yes. As there is no automatic legal admission or status during the procedure there is the possibility that a person can be detained for illegal stay.	See also answer to question 6a.

					<p>where other less invasive or coercive measures have been considered and found insufficient to safeguard the lawful governmental objective pursued by detention.</p> <ul style="list-style-type: none"> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: State practice... reflects rights to liberty and freedom of movement by avoiding detention of those seeking recognition of their stateless status.</li> </ul>		
IDP	5	e		<p>Does law or policy set out a timeframe for the SDP? If so, is it complied with? Can the decision maker extend the timeframe?</p>	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: Some of the most fundamental guarantees reflected in current State practice include: a time limit for a decision following submission of a statelessness status application.</li> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: In general, it is undesirable for a first instance decision to be issued more than six months from the submission of an application... in exceptional circumstances it may be appropriate to allow the proceedings to last up to 12 months to provide time for enquiries regarding the individual's nationality status to be pursued with another State...</li> </ul>	<p>No, there is no fixed timeframe. The general constitutional procedural right to have a case decided within a reasonable time however also applies to the SDP. In practice the duration of a procedure can vary between several days and several years. The link with the asylum procedure is also clarified in the SEM instruction and can also impact on length of the procedure.</p>	<p>Article 29(1) Swiss Constitution <a href="https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a29">https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a29</a> (EN)</p> <p>For several days see e.g. Federal Administrative Court case <a href="#">C-1048/2006, 21 July 2010</a>; <a href="#">C-1538/2009, 29 December 2011</a>; <a href="#">C-5461/2008, 18 March 2009</a>.</p> <p>Several years see Federal Administrative Court case <a href="#">C-2139/2013, 30 September 2014</a> (2.5 years); <a href="#">BVGE 2014/5</a> (2 years); <a href="#">C-4959/2007, 12 November 2008</a> (almost 2 years); <a href="#">C-3555/2007, 19 October 2009</a> (1.5 years); <a href="#">C-2139/2013, 30 September 2014</a> (more than 2.5 years).</p> <p>SEM Instruction, <a href="https://www.sem.admin.ch/dam/data/sem/asyl/verfahren/hb/f/hb-f5-f.pdf">https://www.sem.admin.ch/dam/data/sem/asyl/verfahren/hb/f/hb-f5-f.pdf</a> (FR), pp. 10-11)</p>
IDP	6	a	Appeals	<p>Is there an automatic right of appeal on the case of refusal (on grounds of both law and fact)?</p>	<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: there is a right of appeal... An effective right to appeal against a negative first instance decision is an essential safeguard in an SDP.</li> </ul>	<p>Yes, there is a right of appeal in case of a refusal. The decision of the SEM can be appealed to the Federal Administrative Court (FAC) and thereafter to the Federal Tribunal (FT). The FAC can review grounds of both law and fact. The FT can review grounds of law and grounds of fact in case of manifest errors (<i>offensichtlich unrichtige Sachverhaltsfeststellung</i>).</p>	<p>Federal Administrative Court: Article 49 Administrative Procedure Act: <a href="https://www.admin.ch/opc/en/classified-compilation/19680294/index.html#a49">https://www.admin.ch/opc/en/classified-compilation/19680294/index.html#a49</a> (EN)</p> <p>Federal Tribunal: Article 95 ff Law on the Federal Tribunal: <a href="https://www.admin.ch/opc/fr/classified-compilation/20010204/index.html">https://www.admin.ch/opc/fr/classified-compilation/20010204/index.html</a> (FR)</p>

IDP	6	b		Is legal aid available for appealing/applying to review a negative determination?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: The applicant is to have access to legal counsel and, 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>: Applicants are to have access to legal counsel both at first instance and upon appeal.</li> </ul>	Yes, legal aid is available for an appeal procedure, in case the applicant does not have sufficient means and the case has some prospect of success.	Article 29(3) Swiss Constitution <a href="https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a29">https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a29</a> (EN) Article 65 Administrative Procedure Act <a href="https://www.admin.ch/opc/en/classified-compilation/19680294/index.html#a65">https://www.admin.ch/opc/en/classified-compilation/19680294/index.html#a65</a> (EN)
IDP	6	c		Is there a fee for the appeal application?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: An effective right to appeal against a negative first instance decision is an essential safeguard in an SDP.</li> </ul>	No, there is no actual fee, but the applicant must bear the costs of the procedure in case of a negative decision. The costs can be waived if the person does not have sufficient means and the case has some prospect of success.	Article 63 ff Administrative Procedure Act <a href="https://www.admin.ch/opc/en/classified-compilation/19680294/index.html#a63">https://www.admin.ch/opc/en/classified-compilation/19680294/index.html#a63</a> (EN)
IDP	6	d		Is there evidence of significant errors in decision making? If so, is there a publicly available source (e.g. audits, independent reports, academic research etc.)? If yes, please provide this. If anecdotal, please describe.		No systematic evaluation of the decisions of the SEM or the courts is available. SEM decisions are not publicly available. The decisions of the Federal Administrative Court and the Federal Tribunal are published. No civil society organisation or academic has systematically reviewed the decisions as there is very little academic research on statelessness.	
IDP	7	a	Stateless Status (SDP)	Does recognition of statelessness result in permission to stay/legal status? Is status granted immediately or automati-	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: The 1954 Convention ...[grants] stateless persons a core set of rights. Its provisions, along with applicable standards of international human rights law, establish the minimum</li> </ul>	Yes, persons recognized as stateless have the right to be granted a residence permit. The status is not granted automatically upon recognition but upon application for a residence permit. This is also because the residence permit is issued by the cantonal authorities and not by the SEM. The application	Article 31 Foreign Nationals Act <a href="https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a31">https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a31</a> (EN) Article 34 Foreign Nationals Act <a href="https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a34">https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a34</a> (EN)

				cally upon recognition or identification as stateless?	rights and the obligations of stateless persons in States party to the 1954 Convention. The status granted to a stateless person in a State Party... must reflect these international standards... Although the 1954 Convention does not explicitly require States to grant a person determined to be stateless a right of residence, granting such permission would fulfil the object and purpose of the treaty... It is therefore recommended that States grant persons recognised as stateless a residence permit valid for at least two years, although permits for a longer duration, such as five years, are preferable in the interests of stability. Such permits are to be renewable, providing the possibility of facilitated naturalization as prescribed by Article 32 of the 1954 Convention.	must be made with the authorities of the canton of residence. After ten years of legal residence (five years with a residence permit) stateless persons can acquire a permanent residence permit.	Once the revision of the Federal Act on Foreign Nationals enters into force ( <a href="#">BBl 2015 7207</a> ), recognized stateless persons will no longer be entitled to a permanent residence permit after five years.
IDP	7	b		Are there additional requirements - beyond meeting the definition of a stateless person and satisfying the exclusion provisions - that a stateless person must meet to be granted permission to stay/legal status?	As above.	Yes, according to the wording of Article 31(1) Foreign Nationals Act the person concerned must have legal residence to apply for a residence permit. There is a dispute in legal scholarship over how strictly the criteria should be interpreted, which has not yet been decided by the courts, but it does not seem to pose difficulties for stateless persons in practice. A stateless person is not granted a residence permit if they have been sentenced to a long-term custodial sentence, violated or represented a threat to public security, order or internal or external safety, or made their removal impossible due to their own conduct. In that case the person is only granted temporary admission which technically is not a residence status but still grants the right to	Article 31 Foreign Nationals Act <a href="https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a31">https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a31</a> (EN) Article 83(7) and (8) Foreign Nationals Act <a href="https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a83">https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a83</a> (EN)

						remain (Article 31(2) FNA).	
IDP	7	c		How long is initial status? Is residence status renewable?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: It is recommended that States grant persons recognised as stateless a residence permit valid for at least two years, although permits for a longer duration, such as five years, are preferable in the interests of stability. Such permits are to be renewable, providing the possibility of facilitated naturalization as prescribed by Article 32 of the 1954 Convention.</li> </ul>	The residence permit is initially valid for one year and can be renewed. In subsequent years it is normally valid for two to five years. The permanent residence permit is of unlimited duration.	<p>Article 33 ff Foreign Nationals Act  <a href="https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a34">https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a34</a> (EN)</p> <p>Article 63 Foreign Nationals Act  <a href="https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a63">https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a63</a> (EN)</p>
IDP	7	d		Is a travel document issued to those recognised as stateless?	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a>, Art. 28: The Contracting States shall issue to stateless persons lawfully staying in their territory travel documents for the purpose of travel outside their territory, unless compelling reasons of national security or public order otherwise require, and the provisions of the Schedule to this Convention shall apply with respect to such documents.</li> </ul>	Yes, individuals recognised as stateless have the right to be issued a travel document ( <i>Pass für eine ausländische Person</i> ), which is obtained upon application.	<p>Article 59(2)(b) Foreign Nationals Act  <a href="https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a59">https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a59</a> (EN)</p> <p>Ordonnance on Travel Documents  <a href="https://www.admin.ch/opc/fr/classified-compilation/20121548/index.html">https://www.admin.ch/opc/fr/classified-compilation/20121548/index.html</a> (FR)</p>
IDP	7	e		What are the family reunion provisions for individuals recognised as stateless?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: Although the 1954 Convention does not address family unity, States parties are nevertheless encouraged to facilitate the reunion of those with recognised statelessness status in their territory with their spouses and dependents. Indeed, some States have obligations arising under relevant international or regional human rights treaties to do so.</li> </ul>	There are no specific family reunification provisions for recognised stateless persons, only those that apply to foreigners in general. Recognised stateless persons with a residence permit can apply but the decision is discretionary. The application has to be made within five years, within one year for children over 12 (Art. 47 FNA). Family reunification requires that the family lives together, has appropriate housing and does not receive social security. Stateless persons with a permanent residence permit have the right to family reunification (non-discretionary) if they plan on living together. Stateless persons that have only tem-	<p>Articles 43 and 44 Foreign Nationals Act  <a href="https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a43">https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a43</a> (EN)</p> <p>For temporary admission Article 85(7) Foreign Nationals Act  <a href="https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a85">https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a85</a> (EN)</p>



						porary admission can only apply for family reunification after three years if they live together, have appropriate housing and do not depend on social security, i.e. have sufficient income. Family reunification covers spouses and unmarried children under the age of 18.	
IDP	7	f		Is residence status granted to stateless persons revocable? If yes, on what grounds?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: If an individual recognised as stateless subsequently acquires or reacquires the nationality of another State... he or she will cease to be stateless in terms of the 1954 Convention. This may justify the cancellation of a residence permit obtained on the basis of statelessness status, although proportionality considerations in relation to acquired rights and factors arising under international human rights law, such as the degree to which the individual has established a private and family life in the State, need to be taken into account.</li> </ul>	<p>Yes, a residence permit can be revoked. The grounds for revocation are listed in Article 31(2) Foreign Nationals Act. Grounds for revocation are a long-term custodial sentence or the violation or threat to public security, order or internal or external safety. It is disputed in legal scholarship whether the general grounds for revocation of a residence permit according to Articles 62 and 63 Foreign Nationals Act additionally apply. This would include e.g. revocation for non-compliance with an order or for depending on social security. The question has so far not been decided in court. If the (permanent) residence permit is revoked a stateless person is granted temporary admission.</p>	<p>Article 62 and 63 Foreign Nationals Act <a href="https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a62">https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a62</a> (EN)</p> <p>Article 31 Foreign Nationals Act <a href="https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a31">https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a31</a> (EN)</p> <p>Article 83(7) and (8) Foreign Nationals Act <a href="https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a83">https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a83</a> (EN)</p>
IDP	7	g		Do persons granted stateless status have permission to work?	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a>: The Contracting States shall accord to stateless persons lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to foreigners generally in the same circumstances, as regards the right to engage in wage-earning employment.</li> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: Recognition of an individual as a</li> </ul>	<p>A person recognised as stateless and granted a residence permit has access to the labour market and freedom of movement.</p>	<p>Article 61 Asylum Act <a href="https://www.admin.ch/opc/en/classified-compilation/19995092/index.html#a61">https://www.admin.ch/opc/en/classified-compilation/19995092/index.html#a61</a> (EN) in conjunction with Article 65 Ordonnance on Admission, Stay and Employment <a href="https://www.admin.ch/opc/de/classified-compilation/20070993/index.html#a65">https://www.admin.ch/opc/de/classified-compilation/20070993/index.html#a65</a> (FR)</p> <p>No source for the practice of the cantonal authorities.</p>



# Statelessness Determination and Status – March 2019

					stateless person under the 1954 Convention also triggers the “lawfully staying” rights, in addition to a right to residence. Thus, the right to work [...] must accompany a residence permit.		
IDP	7	h		Do persons granted stateless status have access to primary education?	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention Relating to the Status of Stateless Persons, 1954:</a> (Art. 22) The Contracting States shall accord to stateless persons the same treatment as is accorded to nationals with respect to elementary education.</li> </ul>	Yes, access to education is granted. Children up to the age of 16 have a constitutional right to free primary education.	<p>Article 19 Swiss Constitution  <a href="https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a19">https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a19</a> (EN)</p> <p>Article 62 ff Swiss Constitution  <a href="https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a62">https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a62</a> (EN)</p>
IDP	7	i		Do persons granted stateless status have access to secondary and higher education?	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention Relating to the Status of Stateless Persons, 1954:</a> (Art. 22) The Contracting States shall accord to stateless persons treatment as favourable as possible and, in any event, not less favourable than that accorded to foreigners generally in the same circumstances, with respect to education other than elementary education and, in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships.</li> </ul>	Yes, access to secondary and higher education is granted for recognised stateless persons. Higher education should in principle be accessible on the same basis as for nationals (there may be some minor fees). Scholarships can also be provided.	<p>Article 62 ff Swiss Constitution  <a href="https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a62">https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a62</a> (EN)</p>
IDP	7	j		Do persons granted stateless status have access to social welfare and healthcare?	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention Relating to the Status of Stateless Persons, 1954:</a> (Art. 23, 24)</li> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons:</a> Recognition of an individual as a stateless person under the 1954 Convention also triggers the “lawfully staying” rights, in addition to a right to residence. Thus, the right to</li> </ul>	Yes, stateless persons are granted access to social welfare and healthcare.	<p>Article 1 (3) Federal Decision on the Ratification of the 1954 Convention  <a href="https://www.admin.ch/opc/fr/classified-compilation/19720093/index.html">https://www.admin.ch/opc/fr/classified-compilation/19720093/index.html</a> (FR) in conjunction with Article 81 ff Asylum Act  <a href="https://www.admin.ch/opc/en/classified-compilation/19995092/index.html#a81">https://www.admin.ch/opc/en/classified-compilation/19995092/index.html#a81</a> (EN)</p>

					work, access to healthcare and social assistance, as well as a travel document must accompany a residence permit.		
IDP	8	a	Access to citizenship	Are stateless persons able to naturalise as citizens? In what timeframe?	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a> (Art. 32): The Contracting States shall as far as possible facilitate the assimilation and naturalisation of stateless persons. They shall in particular make every effort to expedite naturalisation proceedings and to reduce as far as possible the charges and costs of such proceedings.</li> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: It is recommended that States Parties facilitate, as far as possible, the naturalisation of stateless persons. This may be achieved, for example, by reducing or waiving residence, income and language requirements for applicants and by exempting them from fees or the obligation to provide documentary evidence.</li> </ul>	Yes, stateless persons are able to naturalise by way of ordinary naturalisation (Article 9 ff Citizenship Act). Simplified naturalisation is possible for stateless children as well as for stateless persons married to a Swiss citizen (Article 20 ff Citizenship Act). The timeframe for an ordinary naturalisation on federal level is ten years of legal residence with a residence permit (Article 9(1)(b) and 33 Citizenship Act). Temporary admission is only counted half. The time spent during an asylum procedure is not counted (Article 33 Citizenship Act). Moreover, according to the new law adopted in 2014, only persons with a permanent residence permit can apply for naturalisation (Article 9(1)(a) Citizenship Act). The Swiss ordinary naturalisation procedure is made even more complicated as the Cantons and Municipalities may introduce their own requirements relating to the required residence period and the level of integration required for a naturalisation (Articles 12(3), 15 and 18 Citizenship Act).	<p>Article 9 Citizenship Act (2014) <a href="https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf">https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf</a> (FR)</p> <p>Article 12(3) Citizenship Act (2014) <a href="https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf">https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf</a> (FR)</p> <p>Article 18 Citizenship Act (2014) <a href="https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf">https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf</a> (FR)</p> <p>Article 33 Citizenship Act (2014) <a href="https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf">https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf</a> (FR)</p> <p>The Citizenship Act sets out minimum requirements; Art. 38(2) Federal Constitution of the Swiss Confederation: “It [the Confederation] shall legislate on the minimum requirements for the naturalisation of foreign nationals by the Cantons and grant naturalisation permits.”</p>
IDP	8	b		If stateless persons can naturalise are there accelerated naturalisation procedures (e.g. reduced qualification periods) which apply to stateless persons? If yes, please provide comparative timeframes	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a> (Art. 32): as above.</li> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: as above.</li> <li>• <a href="#">ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices</a>: ...the main benchmark is whether there is any preferential treatment for stateless persons as compared to the general rules applied to those with a foreign</li> </ul>	There is an accelerated (simplified) naturalisation procedure for stateless children (under 18), who may apply after a legal stay of five years (one of which must be the year preceding the application), if “integrated” (i.e. respect for public security and order and constitutional values, and able to communicate in daily life orally and written in one of the national languages, and not dependent on social security). There are no additional cantonal requirements. Other than required by Article 32 of the 1954 Convention there is no simplified naturalisation for adult stateless persons.	<p>Article 23 Citizenship Act (2014) <a href="https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf">https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf</a> (FR)</p> <p>Article 20 in conjunction with Article 12(1) and 12(2) Citizenship Act (2014) <a href="https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf">https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf</a> (FR)</p>

				for naturalisation in other situations.	nationality...		
IDP	8	c		Are previous criminal convictions a bar to naturalisation? If yes, please describe the requirement. Is there a good character clause (separate from criminal record requirement)? If yes, please describe.	<ul style="list-style-type: none"> <li>• <a href="#">Council of the European Union, Conclusions of the Council and the Representatives of the Member States on Statelessness, December 2015</a>: Each state should facilitate the acquisition of its nationality by stateless persons lawfully and habitually resident on its territory, and in particular each State should:... d) ensure that offences, when they are relevant for the decision concerning the acquisition of nationality, do not unreasonably prevent stateless persons seeking the nationality of a state.</li> <li>• <a href="#">Human Rights Watch, Roma in the Czech Republic: Foreigners in their Own Land (1996)</a>: ... denying citizenship to previously convicted criminals effectively adds an additional, ex post facto punishment to the individual who committed a crime. Imposing penalties heavier than those that applied at the time a crime was committed violates Article 15 of the ICCPR.</li> </ul>	Yes, naturalisation requires that the person concerned observes public order and security (Article 11 in conjunction with 12(1)(a) Citizenship Act). Moreover, the applicant may not constitute a threat to the internal or external security of Switzerland (Article 11 Citizenship Act). Naturalisation is thus excluded if the person has been sentenced to a custodial sentence for a felony or misdemeanours. In case of minor misdemeanours or contraventions the authority has discretion to allow the naturalisation. There is also a good character clause, requiring that the person respects the constitutional values of Switzerland, including fundamental principles of the rule of law, the democratic constitutional order and fundamental rights (Article 12(1)(b) Citizenship Act).	Criminal convictions: Article 12(1)(a) Citizenship Act (2014) <a href="https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf">https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf</a> (FR) in conjunction with Article 4 Ordonnance on Swiss Citizenship <a href="https://www.admin.ch/opc/fr/official-compilation/2016/2577.pdf">https://www.admin.ch/opc/fr/official-compilation/2016/2577.pdf</a> (FR) Good character: Article 12(1)(b) Citizenship Act (2014) <a href="https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf">https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf</a> (FR) in conjunction with Article 5 Ordonnance on Swiss Citizenship <a href="https://www.admin.ch/opc/fr/official-compilation/2016/2577.pdf">https://www.admin.ch/opc/fr/official-compilation/2016/2577.pdf</a> (FR) No violation of internal or external security: Article 11(c) Citizenship Act (2014) <a href="https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf">https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf</a> (FR)
IDP	8	d		Is there a citizenship/integration test?	<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>: ...the main benchmark is whether there is any preferential treatment for stateless persons as compared to the general rules applied to those with a foreign nationality...</li> </ul>	The examination of the naturalisation criteria is done by the cantonal authorities. They can conduct a citizenship or integration test.	Article 2(2) Ordonnance on Swiss Citizenship <a href="https://www.admin.ch/opc/fr/official-compilation/2016/2577.pdf">https://www.admin.ch/opc/fr/official-compilation/2016/2577.pdf</a> (FR)

IDP	8	e		<p>Are there language requirement exemptions for stateless persons?</p>	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: It is...recommended that States Parties facilitate, as far as possible, the naturalisation of stateless persons...for example, by reducing or waiving residence, income and language requirements for applicants and by exempting them from fees or the obligation to provide documentary evidence.</li> <li>• <a href="#">Council of the European Union, Conclusions of the Council and the Representatives of the Governments of the Member States on Statelessness, December 2015</a>: as above</li> <li>• <a href="#">ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices</a>: as above.</li> </ul>	<p>No. The federal law requires language skills on level B1 orally and A2 written of one of the national languages (Article 12(1)(c) Citizenship Act and Article 6 Ordonnance on Swiss Citizenship). The cantons can set higher language requirements (Article 12(3) Citizenship Act).</p> <p>Exemptions are only granted for persons who due to a disability or illness or other grave personal circumstances (e.g. age, illiteracy) cannot fulfil the criteria (Article 12(2) Citizenship Act).</p>	<p>Article 12 Citizenship Act (2014) <a href="https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf">https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf</a> (FR)</p> <p>Article 6 Ordonnance on Swiss Citizenship <a href="https://www.admin.ch/opc/fr/official-compilation/2016/2577.pdf">https://www.admin.ch/opc/fr/official-compilation/2016/2577.pdf</a> (FR)</p> <p>Article 9 Ordonnance on Swiss Citizenship <a href="https://www.admin.ch/opc/fr/official-compilation/2016/2577.pdf">https://www.admin.ch/opc/fr/official-compilation/2016/2577.pdf</a> (FR)</p>
IDP	8	f		<p>Are there income exemptions for stateless persons if a level of income is required for naturalization?</p>	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: as above.</li> </ul>	<p>No. There is no specific level of income required but the applicant may not be dependent on social security. This applies also to stateless persons.</p>	<p>Income: Article 12(1)(d) Citizenship Act (2014) <a href="https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf">https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf</a> (FR) in conjunction with Article 7 Ordonnance on Swiss Citizenship <a href="https://www.admin.ch/opc/fr/official-compilation/2016/2577.pdf">https://www.admin.ch/opc/fr/official-compilation/2016/2577.pdf</a> (FR)</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</a> Art 9 (1): Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.</li> <li>• <a href="#">ECHR</a> Art 5 (1): Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law: ...(FR) 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.	<p>Articles 73-82 Foreign Nationals Act: <a href="https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#id-ni10-5">https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#id-ni10-5</a> (EN)</p> <p>Detention under the airport procedure falls under Article 22-23 of the Federal Asylum Act: <a href="https://www.admin.ch/opc/en/classified-compilation/19995092/index.html#a22">https://www.admin.ch/opc/en/classified-compilation/19995092/index.html#a22</a> (EN)</p>
DET	1	b		Does domestic law allow immigration detention for purposes other than those allowed under ECHR 5(1)(FR)?	<ul style="list-style-type: none"> <li>• <a href="#">ECHR</a> Art 5 (1)(f)</li> </ul>	The grounds for detention listed in Articles 73-78 FNA go beyond ECHR 5(1)(FR) and include grounds provided for in ECHR 5(1)(b), in particular coercive detention according to Article 78 FNA. The Federal Tribunal has held the coercive detention to be compatible with ECHR 5(1)(b) even though this is highly controversial in legal scholarship.	<p>Articles 73-82 Foreign Nationals Act: <a href="https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#id-ni10-5">https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#id-ni10-5</a> (EN)</p> <p>Case law of the Federal Tribunal on the compatibility of Article 78 FNA with ECHR 5(1)(b): <a href="#">133 II 97</a>, para. 2.2; <a href="#">134 I 92</a>, para. 2.3.1-2.3.2.</p>
DET	1	c		Does a proposed country of removal need to be identified before a person is detained for the purpose of removal? Please describe the situation in law	<ul style="list-style-type: none"> <li>• <a href="#">ICCPR</a> Art 7: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Repeated attempts to expel a person to a country where his/her well-being is not guaranteed and where he/she could be subject to cruel, inhuman or degrading treatment or punishment or to a country that is refusing to admit the individual in question could amount to inhuman or degrading treatment.</li> <li>• <a href="#">ECHR</a> Art 5 (1)(FR)</li> <li>• <a href="#">Aua v Bulgaria [2011] Application no 46390/10 (ECtHR)</a>:</li> </ul>	No, not necessarily. Coercive detention, for example, can also be ordered in case the country of removal has not yet been determined. Equally, detention pending deportation can already be ordered while the authorities are establishing the identity of the person concerned and also a possible country of removal.	<p>Article 76 and 78 Foreign Nationals Act: <a href="https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a76">https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a76</a> (EN)</p> <p><a href="https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a78">https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a78</a> (EN)</p>

				and in practice.	<p>...the only issue is whether or not the authorities were sufficiently diligent in their efforts to deport the applicant.</p> <ul style="list-style-type: none"> <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>		See e.g. Federal Tribunal <a href="#">139 I 206</a> , para. 2 (detention pending deportation) or <a href="#">133 II 97</a> (coercive detention).
DET	1	d		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?	<ul style="list-style-type: none"> <li>• <a href="#">Aua v Bulgaria [2011] Application no 46390/10 (ECtHR)</a>: as above.</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... For stateless persons, the absence of status determination procedures to verify identity or nationality can lead to prolonged or indefinite detention. SDPs are therefore an important mechanism to reduce the risk of prolonged and/or arbitrary detention.</li> <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>	<p>Statelessness in principle is not a juridically relevant fact in the decision to detain for the authorities. However, statelessness can lead to detention being disproportionate and thus unlawful if a removal is not possible due to the person being stateless. The risk of statelessness is however not systematically identified.</p> <p>A referral to an SDP is possible if the person concerned lodges a claim for statelessness determination, but there is no formal referral mechanism (see question IDP 5f).</p>	
DET	1	e		Are stateless persons detained in practice? Please provide figures and source of information if available.	<ul style="list-style-type: none"> <li>• <a href="#">Aua v Bulgaria [2011] Application no 46390/10 (ECtHR)</a>: as above.</li> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: as above.</li> <li>• <a href="#">Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention</a>: as above.</li> <li>• <a href="#">International Commission of Jurists, Migration and International Human Rights Law: a Practitioner's Guide 2014</a>: as above.</li> </ul>	It is very likely that some stateless persons are placed in immigration detention for one of the grounds cited above, but no information is available.	



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>Detention may only be used as a last resort. The law in principle foresees alternatives to detention, such as the obligation to refer to the authorities regularly, the payment of a bail, the restriction to a certain area and the deposition of travel documents (Article 64e Foreign Nationals Act). However, in practice there is no systematic consideration of alternatives to detention in the law and alternatives are rarely applied in practice. Article 76a(1)(c) on detention under the Dublin procedures explicitly requires that alternatives to detention have been exhausted.</p>	<p>Article 36 Swiss Constitution: <a href="https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a36">https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a36</a> (EN)</p> <p>Article 64<sup>e</sup> Foreign Nationals Act: <a href="https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a64e">https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a64e</a> (EN)</p> <p>Article 76a Foreign Nationals Act: <a href="https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a76a">https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a76a</a> (EN)</p> <p>On alternatives to detention under the Dublin procedure see e.g. Federal Administrative Court, <a href="#">D-2484/2016</a>, 27 April 2016; <a href="#">D-1626/2016</a>, 22 March 2016</p> <p>UNCAT Concluding Observations on Switzerland 2015, CAT/C/CHE/CO/7, para. 17: <a href="http://daccess-ods.un.org/access.nsf/Get?Open&amp;DS=CAT/C/CHE/CO/7&amp;Lang=E">http://daccess-ods.un.org/access.nsf/Get?Open&amp;DS=CAT/C/CHE/CO/7&amp;Lang=E</a></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="#">UNHCR (2012), Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention</a>: The special circumstances and needs of particular asylum-seekers must be taken into ac-</li> </ul>	<p>Any decision to detain must be evaluated whether it is appropriate, necessary and reasonable with regard to the aim pursued. In the context of this examination the vulnerability of the individual concerned must be taken into consideration. The evaluation must take place prior to detention. For the context of immigration detention Article 81(3) FNA</p>	<p>Article 36 Swiss Constitution: <a href="https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a36">https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a36</a> (EN)</p> <p>Article 81(3) Foreign Nationals Act: <a href="https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a81">https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a81</a> (EN)</p>



					<p>count...</p> <ul style="list-style-type: none"> <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>specifies that the needs of vulnerable persons must be taken into consideration with regard to detention conditions. Stateless persons are not highlighted in the law as a specific vulnerable group. There is no information publicly available how the vulnerability assessment is conducted in practice. Cantonal practices vary greatly. Cantonal practices concerning detention of children aged 15-18 also vary greatly.</p>	<p>Federal Tribunal <a href="#">135 II 105</a>, E. 2.2.2.</p> <p>Terre des Hommes, <i>Illegal detention of migrant children in Switzerland: a status report</i>, 2016: <a href="https://www.tdh.ch/en/news/detention-migrant-children-switzerland">https://www.tdh.ch/en/news/detention-migrant-children-switzerland</a></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?</p> <p>Are alternatives to detention established in law?</p> <p>Are they subject to a statutory time limit and periodic reviews of their necessity and proportionality?</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... Alternatives to detention...are part of any assessment of the necessity and proportionality of detention.</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-</li> </ul>	<p>The law in principle foresees alternatives to detention, such as the obligation to refer to the authorities regularly, the payment of a bail, and the deposition of travel documents (Article 64e Foreign Nationals Act). Article 74 FNA also introduces restriction and exclusion orders as an alternative to detention. However, in practice there is no systematic consideration of alternatives to detention in the law and alternatives are rarely applied in practice. Article 76a(1)(c) on detention under the Dublin procedures explicitly requires that alternatives to detention have been exhausted. The law does not explicitly foresee a statutory time limit to those alternatives to detention. The general principle of proportionality requires time limits and reviews of the necessity and proportionality. Judicial review of any measure</p>	<p>Article 36 Swiss Constitution: <a href="https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a36">https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a36</a> (EN)</p> <p>Article 64e Foreign Nationals Act: <a href="https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a64e">https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a64e</a> (EN)</p> <p>Article 74 Foreign Nationals Act: <a href="https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a74">https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a74</a> (EN)</p> <p>Article 76a Foreign Nationals Act: <a href="https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a76a">https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a76a</a> (EN)</p> <p>On alternatives to detention under the Dublin procedure see e.g. Federal Tribunal <a href="#">119 Ib 193</a>, E. 2; <a href="#">133 I 27</a>,</p>

				<p>custodial 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 of the host state have concluded that compliance with the removal order cannot be ensured as effectively by resorting to non-custodial measures such as supervision systems, the requirement to report regularly to the authorities, bail or other guarantee systems.</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 than detention, ensure the greatest possible freedom of movement and that respect the human rights of the individual.</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>	<p>of constraint, including alternatives to detention, is guaranteed.</p>	<p>E. 3; Federal Administrative Court, <a href="#">D-2484/2016</a>, 27 April 2016; <a href="#">D-1626/2016</a>, 22 March 2016  UNCAT Concluding Observations on Switzerland 2015, CAT/C/CHE/CO/7, para. 17:  <a href="http://daccess-ods.un.org/access.nsf/Get?Open&amp;DS=CAT/C/CHE/CO/7&amp;Lang=E">http://daccess-ods.un.org/access.nsf/Get?Open&amp;DS=CAT/C/CHE/CO/7&amp;Lang=E</a></p>
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	<p>UNCAT Concluding Observations on Switzerland 2015, CAT/C/CHE/CO/7, para. 17: <a href="http://daccess-ods.un.org/access.nsf/Get?Open&amp;DS=CAT/C/CHE/CO/7&amp;Lang=E">http://daccess-ods.un.org/access.nsf/Get?Open&amp;DS=CAT/C/CHE/CO/7&amp;Lang=E</a>  Global Detention Project, Country Profile Switzerland:  <a href="https://www.globaldetentionproject">https://www.globaldetentionproject</a></p>

							<a href="http://www.asylumineurope.org/reports/country/switzerland/detention-asylum-seekers/legal-framework-detention/alternatives">.org/countries/europe/switzerland AIDA, Country Profile Switzerland: <a href="http://www.asylumineurope.org/reports/country/switzerland/detention-asylum-seekers/legal-framework-detention/alternatives">http://www.asylumineurope.org/reports/country/switzerland/detention-asylum-seekers/legal-framework-detention/alternatives</a></a>
DET	3	a	Procedural safeguards	Is there a maximum time period for immigration detention set out in the law? What is it?	<ul style="list-style-type: none"> <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 of this period 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 legislation.</li> <li>• <a href="#">EU Returns Directive</a>: Art 15(5) Each Member State shall set a limited period of detention, which may not exceed six months (extendable by 12 months in specific circumstances of the detainee refusing to cooperate with removal proceedings or delays in obtaining documentation from third countries).</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. Under no circumstances should indefinite detention be tolerated.</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 shortest time possible. There should be a reasonable maximum time-limit for detention. It is highly desirable that states do not detain stateless persons for more than six months. States which at present have a lower than six-month maximum time-limit for detention are urged not to increase it, and all states are urged to review and reduce their maximum time limit for detention.</li> </ul>	Yes. Immigration detention of adults can be ordered for a maximum of 6 months and it can be extended for a further period of up to 12 months where the person does not cooperate with the authorities. The maximum period for detention under Articles 75 and 76 FNA is therefore 18 months as also foreseen in the EU Return Directive. For children age 15-18, the maximum period is 6 months and may be extended by up to 6 months for a total of 12 months. There are special rules concerning the length of detention under the Dublin procedure.	Articles 73-82 Foreign Nationals Act: <a href="https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#id-ni10-5">https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#id-ni10-5</a>

DET	3	b		Does law/policy provide that individuals must be informed in writing of the reasons for immigration detention?	<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.</li> </ul>	Yes.	Article 5(2) ECHR Article 80 Foreign Nationals Act: <a href="https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a80">https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a80</a> (EN)
DET	3	b		Are all detainees provided with information on their rights, contact details of organisations to assist them, including in challenging the legality of their detention and conditions of detention? Does this include guidance on how to access a dedicated SDP?	<ul style="list-style-type: none"> <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 take steps to ensure that sufficient information is available to detained persons in a language they understand, regarding the nature of their detention, the reasons for it, the process for reviewing or challenging the decision to detain.</li> <li>• <a href="#">Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention</a>: Guideline 37 Detainees must be informed of their rights related to the detention order, including the right to legal advice, the right to apply for bail, seek judicial review and/or appeal the legality of the detention. Where appropriate, they should receive free legal assistance; they must be informed of the maximum time limit which they can be held in detention; and they must be provided with a handbook in a language which they understand and that contains information on all their rights and entitlements during detention.</li> </ul>	Yes, detainees are provided with information about their rights, including the right to challenge the legality of the detention and the conditions of detention. There is no information available on how detainees are provided with information about their rights in practice, but most likely statelessness and the procedure for statelessness determination are not subject of an information campaign.	Article 5(2) ECHR
DET	3	c		Are there regular periodic reviews of the necessity for the continuation of detention before a court or an independent	<ul style="list-style-type: none"> <li>• <a href="#">ICCPR</a> Art 9(3): Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release.</li> <li>• <a href="#">EU Returns Directive</a>: Any detention shall ... only be maintained as long as removal arrangements are in progress and</li> </ul>	An initial review of the detention order by a judicial authority must take place within 96 hours after it has been ordered. After the initial review a request for release can be submitted every month.	Article 80 Foreign Nationals Act: <a href="https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a80">https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a80</a>

				<p>body? If yes, are detainees released when it becomes evident that their removal will not be possible within a reasonable time?</p>	<p>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 to which they are thereby subjected.</li> <li>• <a href="#">A. v. Australia, CCPR/C/59/D/560/1993, (HRC)</a>: Decisions to detain should be open to review periodically so that the grounds justifying the detention can be assessed.</li> <li>• <a href="#">Saïd Shamilovich Kadzoev v Direktsia Migratsia' priMinisterstvo 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. If such arrangements are not executed with due diligence the detention will cease to be permissible.</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 periodic review throughout the period of detention, before a judicial body independent of the detaining authorities.</li> </ul>	<p>Yes, if removal or expulsion proves to be unenforceable the person must be released (Article 80 FNA).</p>	
DET	3	d		<p>What remedies are available to an individual to challenge detention? How often can these be invoked? Are</p>	<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, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.</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</li> </ul>	<p>A detention order must be reviewed by a judicial authority at the latest 96 hours after it has been ordered. In principle, there has to be an oral hearing. After the initial review a request for release can be submitted every month.</p>	<p>Article 80 Foreign Nationals Act: <a href="https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a80">https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a80</a> Article 83 Law on the Federal Court</p>

				<p>there any obstacles in practice?</p>	<p>lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.</p> <ul style="list-style-type: none"> <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 to which they are thereby subjected.</li> </ul>	<p>An appeal against the decision can be lodged with the cantonal administrative court and then with the Federal Court.</p>	<p>(e contrario):  <a href="https://www.admin.ch/opc/de/classified-compilation/20010204/index.html#a83">https://www.admin.ch/opc/de/classified-compilation/20010204/index.html#a83</a></p>
DET	3	e		<p>Are there rules/guidance in place that govern the process of re-documentation and/or ascertain entitlement to nationality, for the purpose of removal?</p> <p>Do these rules articulate the respective roles that state and individual are expected to play?</p> <p>Are there time limits clearly set out?</p> <p>Are the outcomes of such processes used/considered relevant for subsequent determination of whether an individual is stateless?</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.</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 (see also above).</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...the respective roles that the state and the individual should be expected to play and related time limits should be clearly articulated. The longer it takes to do so, detention is more likely to become unreasonable and disproportionate.</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. Detention should not be used for nationals of countries to which forced returns are not generally possible.</li> </ul>	<p>Yes, there is a legal basis in the Ordonnance on the enforcement of the removal, expulsion or deportation order on identification and documentation with a view to removal and there is an instruction by the SEM on the identification and documentation for persons with a removal order, including refused asylum seekers. In principle the individual within the asylum procedure has a duty to cooperate in obtaining valid travel documents in case of a removal order (Article 8(4) Asylum Act). If the individual does not cooperate the State can initiate its own efforts and collaborate e.g. with the authorities of the presumed state of origin. There is no time limit for that clearly set out. However, detention in any case ceases to be proportionate if there is no reasonable prospect of receiving documentation. The identification and documentation procedure is not related to the statelessness determination procedure and, in principle, the information is not used or considered in a statelessness determination procedure.</p>	<p>Article 8 Asylum Act:  <a href="https://www.admin.ch/opc/en/classified-compilation/19995092/index.html#a8">https://www.admin.ch/opc/en/classified-compilation/19995092/index.html#a8</a> (EN)</p> <p>Article 3 ff Ordonnance on the Enforcement of the removal, expulsion or deportation order:  <a href="https://www.admin.ch/opc/fr/classified-compilation/19994789/index.html#a3">https://www.admin.ch/opc/fr/classified-compilation/19994789/index.html#a3</a> (FR)</p> <p>SEM Instruction on identification and documentation:  <a href="https://www.sem.admin.ch/dam/data/sem/asyl/verfahren/hb/g/hb-g1-f.pdf">https://www.sem.admin.ch/dam/data/sem/asyl/verfahren/hb/g/hb-g1-f.pdf</a> (FR)</p>



DET	3	f		<p>Is free legal aid available to challenge detention? Are there any barriers to accessing this in practice?</p>	<ul style="list-style-type: none"> <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 have the possibility to obtain legal advice, representation and, where necessary, linguistic assistance.</li> </ul>	<p>Yes, free legal aid in principle is guaranteed. It requires that the person concerned does not have sufficient means. Free legal representation requires that a case presents particular legal or factual difficulties and has some prospect of success. The right to free legal assistance in detention procedures is regulated by cantonal procedural law and can thus vary from one canton to the other. NGOs report that migrants in immigration detention sometimes face difficulties in accessing legal aid.</p>	<p>Cantonal procedural legislation. On this database you can find all cantonal legislation searchable by issue or canton: <a href="http://www.lexfind.ch/">http://www.lexfind.ch/</a></p> <p>AIDA reports that migrants in administrative detention have difficulties accessing lawyers, interpreters, social services etc: <a href="http://www.asylumineurope.org/reports/country/switzerland/legal-assistance">http://www.asylumineurope.org/reports/country/switzerland/legal-assistance</a></p>
DET	4	a	Protections on release	<p>Are those released from detention issued with any identification, including confirmation of their statelessness status, and thus protected from arbitrary re-detention?</p>	<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>: Statelessness, by its very nature, severely restricts access to basic identity and travel documents that nationals normally possess. Moreover, stateless persons are often without a legal residence in any country. Thus, being undocumented or lacking the necessary immigration permits cannot be used as a general justification for detention of such persons.</li> <li>• <a href="#">ENS (2015) Protecting Stateless Persons from Arbitrary Detention: a regional toolkit for practitioners</a>: Article 27 of the 1954 Statelessness Convention... applies to all stateless persons, which includes those not staying legally in the state's territory... state parties to the 1954 Convention have an obligation to provide stay rights to stateless persons who have been released from detention.</li> <li>• <a href="#">Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention</a>: Guidelines 55 &amp; 56 Special care should be taken to address the vulnerabilities of stateless persons who are released from detention and to</li> </ul>	<p>Little information is available on practice. If the removal cannot be implemented the person is released from detention but not granted status. The person will then be undocumented/irregular. Regularisation is only possible if that person can apply for a legal status through some other way, e.g. by marrying someone with a residence permit. However, persons released from detention still have the removal order and proof that they have been detained and that removal was not possible, so combined with the maximum period of detention (DET 4c) this provides some protection from re-detention.</p>	<p>Article 12 Swiss Constitution: <a href="https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a12">https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a12</a>(EN)</p>



					ensure that they enjoy all human rights which they are entitled to under international law... Released stateless detainees should be provided with appropriate documentation and stay rights suitable to their situation.		
DET	4	b		<p>If the purpose of detention cannot be fulfilled (e.g. removal) and the person is released, what legal status is provided to them by law?</p> <p>Can they access social services, accommodation, welfare, education and healthcare?</p> <p>Do they have the right to work?</p>	<ul style="list-style-type: none"> <li>• <a href="#">Saïd Shamilovich Kadzoev v Direktsia Migratsia' pri Ministerstvo na vnatreshnite 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> <li>• <a href="#">Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention</a>: Guideline 55 as above.</li> </ul>	<p>If the removal cannot be implemented the person is released from detention but not granted status and will then be undocumented/irregular. Regularisation is only possible if they can apply for a legal status through some other way, e.g. by marrying someone with a residence permit. Undocumented migrants have only very limited access to social services. They only have access to minimum assistance and care and to the financial means required for a decent standard of living (Article 12 Constitution) but not to social welfare benefits. Also, they have no possibility to get a work permit. In principle they would have to pay contributions to public healthcare insurance and would therefore have healthcare coverage. The right to education for children is guaranteed.</p>	<p>Article 12 Swiss Constitution: <a href="https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a12">https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a12</a> (EN)</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</li> </ul> <p>When calculating the total time spent by an individual in detention, it is highly desirable that time spent in detention on previous occasions is taken into consideration.</p>	<p>In principle, depending on the ground for detention, detention is limited to a maximum period. In case of re-detention it is decisive whether it is considered to be the same case/detention order as the first detention. In that situation the cumulative time is counted. In case it is considered a new case,</p>	<p>Article 79 Foreign Nationals Act <a href="https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a79">https://www.admin.ch/opc/en/classified-compilation/20020232/index.html#a79</a> (EN)</p> <p>Federal Tribunal, 143 II 113, E. 3.2 <a href="https://www.bger.ch/ext/eurospider/live/de/php/clir/http/index.php?highlight_docid=atf%3A%2F%2F143-II-">https://www.bger.ch/ext/eurospider/live/de/php/clir/http/index.php?highlight_docid=atf%3A%2F%2F143-II-</a></p>

						i.e. the person in the meantime has left the country and re-entered irregularly and is now confronted with a new removal order, there is also a new maximum time limit.	<a href="#">113%3Ade&amp;lang=de&amp;zoom=&amp;type=s how document</a>
DET	5	a	Return & readmission agreements	Is statelessness considered a juridically relevant fact in any readmission and/or bilateral return agreements?	<ul style="list-style-type: none"> <li>• <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.</li> </ul>	Yes. Some of the bilateral readmission agreements Switzerland concluded with other states explicitly encompass the readmission of stateless persons, e.g. the readmission agreements with Azerbaijan, Bosnia-Herzegovina, Bulgaria, Denmark, Estonia, Kazakhstan, Kosovo, Kuwait, Poland, Romania, Serbia, & Sweden. Generally, such clauses are found in readmission agreements that have been concluded during the last ten years, even though some date back to the 1990's. The readmission of stateless persons does not require an SDP prior to readmission. Readmission is also possible if the person concerned has a visa or a travel document of the other state or was in possession of a residence permit. Some of the readmission agreements refer to the definition of a stateless person under the 1954 Convention whereas others merely state that a stateless person is a person 'without nationality' (e.g. the Readmission Agreement with Bosnia-Herzegovina or with Serbia).	The texts of the agreements can be found in the classified compilation of Swiss federal legislation, e.g. the Agreement with Bosnia-Herzegovina ( <a href="https://www.admin.ch/opc/de/classified-compilation/20082419/index.html">https://www.admin.ch/opc/de/classified-compilation/20082419/index.html</a> (DE)), with Serbia ( <a href="https://www.admin.ch/opc/de/classified-compilation/20091277/index.html">https://www.admin.ch/opc/de/classified-compilation/20091277/index.html</a> (DE)), with Denmark ( <a href="https://www.admin.ch/opc/de/classified-compilation/20103355/index.html">https://www.admin.ch/opc/de/classified-compilation/20103355/index.html</a> (DE)) or with Kazakhstan ( <a href="https://www.admin.ch/opc/de/classified-compilation/20100061/index.html">https://www.admin.ch/opc/de/classified-compilation/20100061/index.html</a> (DE)).
DET	5	b		Are you aware of		No.	

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				cases of cases of stateless people being returned under such agreements?			
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## Prevention and Reduction

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
PRS	1	a	Stateless born on territory	Is there a provision in law for stateless children born on the territory to be granted nationality?	<ul style="list-style-type: none"> <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>	Yes, there is a provision in law allowing for simplified naturalisation of stateless children in Switzerland. It does not however depend on the child being born in Switzerland but on the requirement of five years of residence, among others (see also answer to IDP 9a and 9b above). Thus, there is no specific safeguard for children born stateless in Switzerland.	Article 38(3) Swiss Constitution: <a href="https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a38">https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a38</a> (EN) Article 23 Citizenship Act (2014): <a href="https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf">https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf</a> (FR)
PRS	1	b		Is the provision for stateless children to access nationality automatic or non-automatic (i.e. by application)?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR Guidelines on Statelessness #4 2012</a>: Article 1 of the 1961 Convention provides Contracting States with two alternative options for granting nationality to children who would otherwise be stateless born in their territory. States can either provide for automatic acquisition of nationality upon birth pursuant to Article 1(1)(a), or for acquisition of nationality upon application pursuant to Article 1(1)(b) ...</li> <li>• <a href="#">ENS (2015), No Child Should Be Stateless</a>: Article 1 of the 1961 Convention and article 6(2) of the ECN are the most important of these norms for the European context. Both oblige the conferral of nationality to children</li> </ul>	Yes, there is a non-automatic possibility of access to nationality by application through the so-called simplified naturalisation. For simplified naturalisation the child must have five years' legal residence, one year of which must be immediately prior to the application. Moreover, the child must be integrated in Switzerland (Article 23 in conjunction with Article 20 in conjunction with Article 12 Citizenship Act). According to Article 12 Citizenship Act and the Citizenship Ordinance, a person is successfully integrated if they respect public security and order, and constitutional values, can communicate in daily life orally and in writing in one of the	Article 38(3) Swiss Constitution: <a href="https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a38">https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a38</a> (EN) Article 23 in conjunction with Article 20 in conjunction with Article 12 Citizenship Act (2014): <a href="https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf">https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf</a> (FR) Articles 2 ff Ordonnance on Swiss Citizenship: <a href="https://www.admin.ch/opc/fr/official-compilation/2016/2577.pdf">https://www.admin.ch/opc/fr/official-compilation/2016/2577.pdf</a> (FR)

					born on the territory if they would otherwise be stateless but allow some leeway in how states transpose this safeguard into their domestic systems. The first, and optimal, method – as it is all-encompassing and does not tolerate even a temporary period of statelessness – is to grant nationality to otherwise stateless children automatically, at birth.	official national languages, and participate in the labour market or in education (i.e. does not depend on social security). The requirements for simplified naturalisation are reduced vis-à-vis ordinary naturalisation. Nevertheless, the authorities maintain discretion when deciding whether the criteria are fulfilled. The legal residence requirement is contrary to Switzerland's international obligations and can result in children born stateless in Switzerland not being able to acquire Swiss nationality because their parents are irregular migrants. The possibility of simplified naturalisation expires once the stateless child turns eighteen.	
PRS	1	c		Is it a requirement that the parents are also stateless for the child to acquire the nationality of the host state?	<ul style="list-style-type: none"> <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. Restricting the application of Article 1 of the 1961 Convention to children of stateless parents is insufficient in light of the different ways in which a child may be rendered stateless and contrary to the terms of those provisions.</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.	Article 23 Citizenship Act (2014): <a href="https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf">https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf</a> (FR)
PRS	1	d		Are children born stateless required to prove they cannot access another nationality	<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</li> </ul>	They must be recognised by Switzerland as stateless. For the requirements and questions of proof see above in the section on Statelessness Determination and Status. Additionally, the child must prove that it fulfils the criteria for a simplified naturalisa-	Article 20 in conjunction with Article 12 Citizenship Act (2014): <a href="https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf">https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf</a> (FR) Articles 12 ff. Administrative Procedure Act APA:

				<p>to acquire nationality of the country of birth?</p> <p>If yes, please describe the requirement e.g. what is the standard and burden of proof, and how lack of any other nationality (i.e. statelessness) is determined in practice?</p>	<p>conflicts with the interpretation applied by the State concerned... the burden of proof must be shared between the claimant and the authorities... decision makers need to take into account Articles 3 and 7 of the CRC and adopt an appropriate standard of proof, for example... 'reasonable degree'... Requiring a higher standard of proof would undermine the object and purpose of the 1961 Convention. Special procedural considerations to address the acute challenges faced by children, especially unaccompanied children, in communicating basic facts with respect to their nationality are to be respected.</p>	<p>tion according to Article 20 in conjunction with Article 12 Citizenship Act. The standard of proof and the burden of proof are the same as in the statelessness determination procedure.</p>	<p><a href="https://www.admin.ch/opc/en/classified-compilation/19680294/index.html#a12">https://www.admin.ch/opc/en/classified-compilation/19680294/index.html#a12</a> (EN)</p>
PRS	1	e		<p>Is a stateless child born on the territory required to fulfil a period of residence to be granted nationality?</p> <p>If yes, what is it?</p> <p>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: ...b) that the person concerned has habitually resided in the territory of the Contracting State for such period as may be fixed by that State, not exceeding five years immediately preceding the lodging of the application nor ten years in all.</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. In light of the standards established under the CRC, these periods are lengthy. States which ...require a certain period of habitual residence are encouraged to provide for a period as short as possible...The term "habitual</li> </ul>	<p>Yes. The requirement is five years of legal residence, one year of which must be immediately before the application for naturalisation is made.</p>	<p>Article 23 Citizenship Act (2014): <a href="https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf">https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf</a> (FR)</p> <p>For an explanation of „Aufenthalt in Übereinstimmung mit den ausländerrechtlichen Vorschriften“ see: Bundesrat, <i>Botschaft zur Totalrevision des Bundesgesetzes über das Schweizer Bürgerrecht (Bürgerrechtsgesetz, BüG) vom 4. März 2011</i>, p. 2857: <a href="https://www.admin.ch/opc/de/federal-gazette/2011/2825.pdf">https://www.admin.ch/opc/de/federal-gazette/2011/2825.pdf</a>; Art. 33 Citizenship Act (2014).</p>

					<p>al residence” is ...to be understood as stable, factual residence. It does not imply a legal or formal residence requirement. The 1961 Convention does not permit Contracting States to make an application for the acquisition of nationality by individuals who would otherwise be stateless conditional upon lawful residence.</p> <ul style="list-style-type: none"> <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, have access to citizenship without any conditions.</li> <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 immediately preceding the lodging of the application.</li> <li>• <a href="#">ENS (2016), Ending Childhood Statelessness</a>: The ECN cannot be interpreted as undermining states’ obligations under the CRC...and the requirement of lawful residence should be removed.</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?</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 for citizenship, legal residence or similar status by the parents of a child born on the territory should not prejudice the right of the child to acquire the nationality of the State party where the child would otherwise be stateless.</li> </ul>	No, but it is necessary for the child – see above.	



				Must this be legal and/or permanent residence?	<ul style="list-style-type: none"> <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 which permits only the condition of a certain period of habitual residence.</li> </ul>		
PRS	1	g		What are the age limits, if any, for making an application for nationality for a stateless person born on the territory?	<ul style="list-style-type: none"> <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 eighteen years and ending not earlier than at the age of twenty-one 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 in accordance with Article 1(2)(a) of the 1961 Convention.</li> <li>• <a href="#">ENS (2015), No Child Should Be Stateless:</a> ...any application procedure which only becomes available in late childhood or even upon reaching majority is particularly problematic [...] closing the window of opportunity to apply for a nationality through such safeguards too early has the effect of leaving it in the hands of parents to take the necessary steps to secure a nationality for their child and may mean children are left stateless due to the lack of action on the part of their parents.</li> </ul>	18 years of age is the limit for applying for simplified naturalisation.	<p>Article 38(3) Swiss Constitution: <a href="https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a38">https://www.admin.ch/opc/en/classified-compilation/19995395/index.html#a38</a> (EN)</p> <p>Article 23 Citizenship Act (2014): <a href="https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf">https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf</a> (FR)</p> <p>Article 14 Swiss Civil Code: <a href="https://www.admin.ch/opc/en/classified-compilation/19070042/index.html#a14">https://www.admin.ch/opc/en/classified-compilation/19070042/index.html#a14</a> (EN)</p>
PRS	1	h		Are there specific provisions for the nationality or statelessness of children born to beneficiaries of international	<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 regis-</li> </ul>	No	

				protection?	tration or other procedure, this will be impossible owing to the very nature of refugee status which precludes refugee parents from contacting their consular authorities.		
PRS	2	a	Foundlings	Are foundlings granted citizenship <i>by law</i> ? If it's not automatic, is there an application procedure?	<ul style="list-style-type: none"> <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, foundlings acquire Swiss nationality automatically.	Article 3 Citizenship Act (2014): <a href="https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf">https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf</a> (FR)
PRS	2	b		If yes to either question immediately above, is there an age limit (or status e.g. 'newborn') specified for foundlings to be granted citizenship? If not, when would a child usually qualify in practice?	<ul style="list-style-type: none"> <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 information pertaining to the identity of their parents or their place of birth... If a State provides for an age limit for foundlings to acquire nationality, the age of the child at the date the child was found is decisive and not the date when the child came to the attention of the authorities.</li> </ul>	Yes – only minor children, i.e. children under the age of 18 acquire citizenship automatically if found.	Article 3 Citizenship Act (2014): <a href="https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf">https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf</a> (FR)
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 pursuant to Article 2 of the 1961 Convention may only be lost if it is proven that the child concerned possesses another State's nationality.</li> </ul>	Citizenship can be withdrawn if it is later established who the parents are, if such action would not result in the child becoming stateless. Citizenship cannot be withdrawn if it would result in the child becoming stateless or in the case of an individual who has already reached the age of 18.	Article 3 Citizenship Act (2014): <a href="https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf">https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf</a> (FR)

PRS	3	a	Adoption	<p>Where a child national is adopted by foreign parent(s), does the child lose their original nationality before the new nationality is adopted?</p>	<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 marriage, termination of marriage, legitimation, recognition or adoption, such loss shall be conditional upon possession or acquisition of another nationality.</li> <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... Each State Party shall permit the renunciation of its nationality provided the persons concerned do not thereby become stateless.</li> <li>• <a href="#">Committee on the Rights of the Child, Concluding Observations: Switzerland, CRC/C/CHE/CO/2-04, 2015</a>: [recommended that Switzerland] accelerate the assessment procedure and ensure that a child adopted from abroad is not stateless or discriminated against during the waiting period between his or her arrival in the State party and formal adoption.</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>	<p>A Swiss child adopted by foreign nationals loses Swiss nationality once the adoption enters into legal force, but only if the child thereby acquires the nationality of the adopting parent or already has this nationality.</p>	<p>Article 6 Citizenship Act (2014): <a href="https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf">https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf</a> (FR)</p> <p>Article 267a Civil Code: <a href="https://www.admin.ch/opc/en/classified-compilation/19070042/index.html#a267a">https://www.admin.ch/opc/en/classified-compilation/19070042/index.html#a267a</a> (EN)</p>
PRS	3	b		<p>Does a foreign child adopted by national parents acquire nationality? Is there a risk of stateless-</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, Con-</a></li> </ul>	<p>A foreign child adopted by Swiss parents acquires Swiss nationality. However, the adoption only becomes formally effective after a waiting period of one year during which the adoptive parents already cared for the child. During the waiting period the child</p>	<p>Article 4, Citizenship Act: <a href="https://www.admin.ch/opc/de/classified-compilation/20092990/index.html#a4">https://www.admin.ch/opc/de/classified-compilation/20092990/index.html#a4</a> (DE)</p> <p>Article 264, Civil Code:</p>

				ness during the adoption process? Are there any age limits?	<a href="#">cluding 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.	has a residence permit. The age limit for adoption (and acquisition of citizenship by adoption) is 18. The Committee on the Rights of the Child has criticised this practice.	<a href="https://www.admin.ch/opc/de/classified-compilation/19070042/index.html#a264">https://www.admin.ch/opc/de/classified-compilation/19070042/index.html#a264</a> (DE) Article 8, Adoption Ordinance: <a href="https://www.admin.ch/opc/de/classified-compilation/20091244/index.html#a8">https://www.admin.ch/opc/de/classified-compilation/20091244/index.html#a8</a> (DE) Committee on the Rights of the Child, Concluding Observations: Switzerland, CRC/C/CHE/CO/2-04, 2015: <a href="http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhskw6ZHISjLEtdRql6Pfo3d19G0fwi7ZPzdEOVKAQgeqWKogX2iXEvG5O%2bzGKtEo1nvnVtG%2fXYEnmWa47plmDxnXlhPMHh5Fz%2fKc%2fL6gvZOS">http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhskw6ZHISjLEtdRql6Pfo3d19G0fwi7ZPzdEOVKAQgeqWKogX2iXEvG5O%2bzGKtEo1nvnVtG%2fXYEnmWa47plmDxnXlhPMHh5Fz%2fKc%2fL6gvZOS</a>
PRS	4	a	Ius sanguinis and discrimination	Can children of a parent who is a national, born outside the country, access nationality by descent (ius sanguinis)? Are there any conditions? Could these conditions be regarded as discriminatory?	<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 automatically and either misses the age limit to apply for nationality or cannot meet the habitual residence requirement in the State of birth... responsibility falls to the Contracting State of the parents to grant its nationality to the child (or children) of its national... where children of a national of a Contracting State who would otherwise be stateless are born in a non-Contracting State... the Contracting State of the parents [is required] to grant its nationality to the child (or children) of its nationals born abroad... Article 4 of the 1961</li> </ul>	Yes. In principle there are no conditions, but citizenship can be lost/forfeited if the child has not been registered with the Swiss authorities (in Switzerland or abroad) before the 25 <sup>th</sup> birthday of the child, but only if the child does not become stateless. In the case of unmarried parents where only the father is Swiss, additional evidence of paternity may be required.	Article 1 and 7, Citizenship Act (2014): <a href="https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf">https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf</a> (FR)

					<p>Convention must be read in light of developments in international human rights law, in particular the right of every child to acquire a nationality... and the principle of the best interests of the child ...</p> <ul style="list-style-type: none"> <li>• <a href="#">Genovese v. Malta (ECtHR) Application No. 53124/09, 11 October 2011</a>: While the right to citizenship is not as such a Convention right and while its denial in the present case was not such as to give rise to a violation of Article 8, the Court considers that its impact on the applicant's social identity was such as to bring it within the general scope and ambit of that article. Maltese legislation expressly granted the right to citizenship by descent and established a procedure to that end. Consequently, the state which has gone beyond its obligations under Article 8 in creating such a right [ . . .] must ensure that the right is secured without discrimination within the meaning of Article 14.</li> <li>• <a href="#">ENS (2015), No Child Should Be Stateless</a>: States are free to impose additional conditions [to <i>Ius Sanguinis</i> conferral], as long as these are not discriminatory in nature... safeguards should again be in place to ensure that statelessness does not result....</li> <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> <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>		
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PRS	4	b		Can children of a parent who is a national, born outside the country, access nationality by descent (ius sanguinis) if they would otherwise be stateless? Are there any conditions? Could these conditions be regarded as discriminatory?	As above	If a child is born outside the country to a national, they automatically acquire Swiss nationality. In principle the child must be registered with the Swiss authorities before their 25 <sup>th</sup> birthday, otherwise the nationality is forfeited. Forfeiture however is only possible if the child does not become stateless. If the child would otherwise be stateless, nationality cannot be lost.	Article 1 and 7, Citizenship Act (2014): <a href="https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf">https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf</a> (FR)
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, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.</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>: register the birth of all children born on their territory, even if they are born to a foreign parent with an irregular immigration status or if the parents are unknown, in order to safeguard their right to a nationality. The registration of birth should be free of charge and be performed without delay, even if the period within which the birth should have been declared has already expired.</li> <li>• <a href="#">UNHCR Guidelines on Statelessness #4 2012</a>: ... registration of the birth provides proof of</li> </ul>	Any child born in Switzerland must be registered at the civil registry office of the district in which the child is born within three days of the birth. Usually the hospital where the child is born will register the child. If the child is born at home/outside a medical facility the birth can be reported by the mother or any other witness to the birth. Late registration is possible. If the parents are undocumented the child's birth must still be registered. Reportedly, some undocumented parents have encountered delays or barriers when trying to register births.	Article 40, Civil Code: <a href="https://www.admin.ch/opc/en/classified-compilation/19070042/index.html#a40">https://www.admin.ch/opc/en/classified-compilation/19070042/index.html#a40</a> (EN) Article 15a, Civil Registry Ordinance: <a href="https://www.admin.ch/opc/fr/classified-compilation/20040234/index.html#a15a">https://www.admin.ch/opc/fr/classified-compilation/20040234/index.html#a15a</a> (FR) Article 34, Civil Registry Ordinance: <a href="https://www.admin.ch/opc/fr/classified-compilation/20040234/index.html#a34">https://www.admin.ch/opc/fr/classified-compilation/20040234/index.html#a34</a> (FR) Instruction to the Civil Registry Ordinance on the registration of non-nationals (October 2008): <a href="https://www.bj.admin.ch/content/dam/data/bj/gesellschaft/zivilstand/weisungen/weisungen-07/10-08-10-01-d.pdf">https://www.bj.admin.ch/content/dam/data/bj/gesellschaft/zivilstand/weisungen/weisungen-07/10-08-10-01-d.pdf</a> (DE)

				<p>descent and of place of birth and therefore underpins implementation of the 1961 Convention and related human rights norms. Article 7 of the CRC specifically requires the registration of the birth of all children and applies irrespective of the nationality, statelessness or residence status of the parents.</p> <ul style="list-style-type: none"> <li>• <a href="#">UNHCR Global Action Plan to End Statelessness 2014-24</a>: Action 7 Ensure birth registration for the prevention of statelessness.</li> <li>• <a href="#">UN Sustainable Development Goal 16</a>: By 2030, provide legal identity for all, including birth registration.</li> <li>• <a href="#">UN Human Rights Council, Resolution A/HRC/RES/20/4</a>: Calls upon States to ensure free birth registration, including free or low-fee late birth registration, for every child, and underscores the importance of effective birth registration and provision of documentary proof of birth irrespective of his or her immigration status and that of his or her parents or family members, which can contribute to reducing statelessness, as well as reducing vulnerability to trafficking in persons and other abuses and violations of their human rights.</li> </ul>		<p>Instruction to the Civil Registry Ordinance on the registration of non-nationals with regard to legal stay in the country (January 2011): <a href="https://www.bj.admin.ch/content/dam/data/bj/gesellschaft/zivilstand/weisungen/weisungen-07/10-11-01-02-d.pdf">https://www.bj.admin.ch/content/dam/data/bj/gesellschaft/zivilstand/weisungen/weisungen-07/10-11-01-02-d.pdf</a> (DE)</p>
PRS	5	b	Are there credible reports that suggest that children are prevented from registering <i>in practice</i> because of lack of documentation and/or parents' legal residence?	<ul style="list-style-type: none"> <li>• <a href="#">Convention on the Rights of the Child 1989</a>: Art 7(1)</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>: as above.</li> <li>• <a href="#">UNHCR Guidelines on Statelessness #4 2012</a>: as above.</li> <li>• <a href="#">UNHCR Global Action Plan to End Statelessness 2014-24</a>: Action 7</li> <li>• <a href="#">UN Sustainable Development Goal 16</a></li> </ul>	<p>Problems with birth registration and delays have been reported. The fact that birth registration is handled at the cantonal level makes it difficult to find accurate and up to date information. A report by the Federal Council of 2009 reports that at a set date in 2007, 813 births were not yet registered because of missing information about the identity of the mother or the father of the child. 90 % of these cases were resolved within 6 months after the birth of the child. The Committee on the Rights of the Child in its 2015 Concluding Observations on the 2-</p>	<p>Federal Council Report on the Registration of the Birth of non-national children of 2009: <a href="https://www.bj.admin.ch/dam/data/bj/gesellschaft/zivilstand/dokumentation/berichte/ber-br-beurkundung-d.pdf">https://www.bj.admin.ch/dam/data/bj/gesellschaft/zivilstand/dokumentation/berichte/ber-br-beurkundung-d.pdf</a> (DE)</p> <p>Committee on the Rights of the Child Concluding Observations: Switzerland, 2015: <a href="http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPP">http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPP</a></p>



					<ul style="list-style-type: none"> <li>• <a href="#">UN Human Rights Council, Resolution A/HRC/RES/20/4</a>: as above</li> </ul>	4 <sup>th</sup> periodic report of Switzerland recommended that Switzerland ensures that birth registration is available as soon as possible for all children, regardless of their parents' legal status and/or origin.	<a href="#">RiCAqhKb7yhskw6ZHISjLETdRql6Pfo3d19G0fwi7ZPZdEOVKAQgeqWKogX2iXEvG5O%2bzGktEo1nvnVtG%2fXYEnmWa47plmDxnXlhPMHh5Fz%2fKc%2fL6gvzos</a>
PRS	5	c		Are there mandatory reporting requirements for authorities which would deter undocumented parents coming forward to register their children (e.g. medical 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 below the standards set out in human rights law, implicit or contradicted by other rules and practices, such as the duty to denounce or administrative requirements.</li> </ul>	No. Guidance to the Civil Registry Ordinance of January 2011 on the registration of non-nationals explicitly prohibits illegal stays from being reported to the migration authorities. The same applies to medical authorities or schools. A problem can arise if the health insurance of an undocumented person states a false address and this address is reported to the civil registry.	<p>Instruction to the Civil Registry Ordinance on the registration of non-nationals with regard to legal stay in the country (January 2011): <a href="https://www.bj.admin.ch/content/dam/data/bj/gesellschaft/zivilstand/weisungen/weisungen-07/10-11-01-02-d.pdf">https://www.bj.admin.ch/content/dam/data/bj/gesellschaft/zivilstand/weisungen/weisungen-07/10-11-01-02-d.pdf</a> (DE)</p> <p>Reports about problems relating to health insurance are informal/anecdotal.</p>
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 to undocumented populations... States also need procedures for late and delayed birth registration and may consider undertaking campaigns to register older children and adults. Birth registration needs to be free, accessible and undertaken on a non-discriminatory basis.</li> <li>• <a href="#">UN Human Rights Council, Resolution A/HRC/RES/20/4</a>: as above.</li> </ul>	The birth must be registered immediately or at least within three days. Late registration is possible.	Article 35, Civil Registry Ordinance: <a href="https://www.admin.ch/opc/de/classified-compilation/20040234/index.html#a35">https://www.admin.ch/opc/de/classified-compilation/20040234/index.html#a35</a>

					<ul style="list-style-type: none"> <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>: as above.</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>		
PRS	6	b		Is late birth registration possible in practice?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR Global Action Plan to End Statelessness 2014-24</a>: as above.</li> <li>• <a href="#">UN Human Rights Council, Resolution A/HRC/RES/20/4</a>: as above.</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>: as above.</li> <li>• <a href="#">ENS (2015), No Child Should Be Stateless</a>: as above.</li> </ul>	Yes	Article 35, Civil Registry Ordinance: <a href="https://www.admin.ch/opc/fr/classified-compilation/20040234/index.html#a35">https://www.admin.ch/opc/fr/classified-compilation/20040234/index.html#a35</a> (FR) Federal Council Report on the Registration of the Birth of non-national children of 2009: <a href="https://www.bj.admin.ch/dam/data/bj/gesellschaft/zivilstand/dokumentation/berichte/ber-br-beurkundung-d.pdf">https://www.bj.admin.ch/dam/data/bj/gesellschaft/zivilstand/dokumentation/berichte/ber-br-beurkundung-d.pdf</a> (DE)
PRS	6	c		Are there any additional requirements (e.g. fee) for the late birth registration procedure? Are these problematic or do they cause lengthy delays?	<ul style="list-style-type: none"> <li>• <a href="#">UN Human Rights Council, Resolution A/HRC/RES/20/4</a>: as above.</li> </ul>	No	
PRS	7	a	Reduction	Does the government have any pro-	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR Global Action Plan to End Statelessness 2014-24</a>: Action 7</li> <li>• <a href="#">Council of Europe, 3rd European Conference</a></li> </ul>	No.	

				grammes in place to promote civil registration (including birth registration)? If yes, please provide details.	<a href="#">on Nationality, 11-12 October 2004</a> : Taken together Art 7 & 8 ECHR should be understood to encourage States Parties not only to take positive steps to avoid statelessness – including the promotion of birth registration – but also to grant citizenship to children who would otherwise be stateless...		
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</a>: Action 4</li> </ul>	Yes. Undocumented migrants.	SEM, Illegale/Irreguläre Migration: <a href="https://www.sem.admin.ch/sem/de/home/internationales/illegale-migration.html">https://www.sem.admin.ch/sem/de/home/internationales/illegale-migration.html</a> (DE)
PRS	7	c		Has the Government implemented any other measures specifically aimed at reducing (risk of) statelessness? (e.g. identification, registration or naturalisation campaigns, removal of treaty reservations, reform of discriminatory laws, etc.)	<ul style="list-style-type: none"> <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</a>: Action 1, Action 8</li> <li>• <a href="#">UNHCR, Good Practices Paper - Action 1: Resolving Existing Major Situations of Statelessness, 2015</a></li> </ul>	No.	

PRS	8	a	Withdrawal of nationality	Are there any provisions on loss and/or deprivation of nationality? If yes, are these established in law? If not, where can they be found? Do any provisions allow for statelessness? If there is a safeguard against statelessness, is it applied in practice?	<ul style="list-style-type: none"> <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, the Citizenship Act foresees different mechanisms for loss of nationality. Nationality can be annulled if acquired fraudulently (Art. 36); renounced (Art. 37 ff.); revoked if the person has acted seriously detrimentally to the interests or the reputation of Switzerland and does not become stateless (Art. 42); lost ex lege (Art. 5 ff.). Deprivation of nationality (revocation) is excluded if the person would become stateless. This safeguard is applied in practice. Annulment of naturalisation is possible even if the person concerned becomes stateless.	Article 36, 37, 5 & 42, Citizenship Act (2014): <a href="https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf">https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf</a> (FR)
PRS	8	b		Who is the competent authority in any procedure for ordering deprivation of nationality? What procedural guarantees are there? (e.g. judicial oversight, time limit, subject to prior sentencing, appeal rights, legal aid)	<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 certification of its nationality contain reasons in writing...</li> </ul>	The SEM is the competent authority. The deprivation in principle is subject to prior sentencing except for cases where a criminal procedure seems futile as the state where the criminal acts occurred is not willing or able to pursue a criminal procedure or to provide judicial assistance. The decision of the SEM can be appealed at the Federal Administrative Tribunal and ultimately at the Federal Tribunal. Free legal aid and representation is available both at first instance and appeals stage. It is, however, conditional on the person concerned not having sufficient means and the case having some prospect of success.	Article 42, Citizenship Act (2014): <a href="https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf">https://www.admin.ch/opc/fr/official-compilation/2016/2561.pdf</a> (FR) Article 30, Ordonnance on Swiss Citizenship: <a href="https://www.admin.ch/opc/fr/official-compilation/2016/2577.pdf">https://www.admin.ch/opc/fr/official-compilation/2016/2577.pdf</a> (FR) Article 65, Administrative Procedure Act (appeals procedure and first instance procedures): <a href="https://www.admin.ch/opc/en/classified-compilation/19680294/index.html#a65">https://www.admin.ch/opc/en/classified-compilation/19680294/index.html#a65</a> (EN)
PRS	8	c		Are withdrawal provisions (both for loss and deprivation)		Since 1953 there has never been a deprivation of nationality. In 2015 the SEM opened a procedure for deprivation of nationality but had to close it in 2017 as the person	SEM, Handbook Citizenship, p. 16: <a href="https://www.sem.admin.ch/dam/data/sem/rechtsgrundlagen/weisungen/buergerrecht/hb-bueg-kap2-d.pdf">https://www.sem.admin.ch/dam/data/sem/rechtsgrundlagen/weisungen/buergerrecht/hb-bueg-kap2-d.pdf</a> (DE)

## Prevention and Reduction – March 2019

				applied in practice?		<p>concerned had died. According to unconfirmed information there are currently several procedures pending in the SEM.</p> <p>The provision for annulment of naturalization is often applied in practice.</p>	<p>News report about ongoing deprivation procedures, Neue Zürcher Zeitung, 6.4.2018:  <a href="https://www.nzz.ch/schweiz/der-bund-will-jihadisten-den-pass-entziehen-ld.1374831">https://www.nzz.ch/schweiz/der-bund-will-jihadisten-den-pass-entziehen-ld.1374831</a> (DE)</p> <p>The numbers of annulments of naturalisation are not published.</p>
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## Jurisprudence and Training

Cat	Q	Sub	Subtheme	Question	International Norms/Good Practice	Answer	Source
LIT	1	a	Published Judgements	Number of published judgements adjudicating statelessness (broken down by level of jurisdiction). Please list.		<p>Federal Court:</p> <ul style="list-style-type: none"> <li>- Leading cases (published judgment): 0</li> <li>- Other published judgments (since 2000): 8</li> </ul> <p>Federal Administrative Court:</p> <ul style="list-style-type: none"> <li>- Leading cases (published judgment): 2</li> <li>- Other published judgments: 32</li> </ul> <p>Cantonal Courts normally do not deal with questions concerning statelessness as this is primarily a Federal competence.</p>	<p>Numbers based on the cases indicated on the respective databases of the two federal courts, the Federal Tribunal:</p> <p><a href="http://www.bger.ch/index/jurisdiction/jurisdiction-inherit-template/jurisdiction-recht.htm">http://www.bger.ch/index/jurisdiction/jurisdiction-inherit-template/jurisdiction-recht.htm</a>; and the Federal Administrative Court:</p> <p><a href="http://www.bvger.ch/publiws/pub/search.jsf">http://www.bvger.ch/publiws/pub/search.jsf</a> (Keyword search: "Anerkennung der Staatenlosigkeit")</p>
LIT	1	b		Number of published judgements mentioning statelessness (broken down by level of jurisdiction).		<p>Federal Court:</p> <ul style="list-style-type: none"> <li>- Leading cases (published judgment): 7</li> <li>- Other published judgments: 33</li> </ul> <p>Federal Administrative Court:</p> <ul style="list-style-type: none"> <li>- Leading cases (published judgment): 4</li> <li>- Other published judgments: 247</li> </ul>	<p>Numbers based on the cases indicated on the respective databases of the two federal courts, the Federal Tribunal:</p> <p><a href="http://www.bger.ch/index/jurisdiction/jurisdiction-inherit-template/jurisdiction-recht.htm">http://www.bger.ch/index/jurisdiction/jurisdiction-inherit-template/jurisdiction-recht.htm</a>; and the Federal Administrative Court:</p> <p><a href="http://www.bvger.ch/publiws/pub/search.jsf">http://www.bvger.ch/publiws/pub/search.jsf</a> (Keyword search: "Staatenlosigkeit")</p>
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</a>.</li> </ul>	<p>There is no specialised training of government officials (migration and asylum procedure officials, staff of reception detention centres, judges, police, etc), neither on federal nor on cantonal level on nationality laws and practices, statelessness and international standards.</p>	

					<a href="#">Statelessness Determination Procedures and the Status of Stateless Persons 2010</a> : It is recommended that States provide specialized training on nationality laws and practices, international standards and statelessness to officials responsible for making statelessness determinations.		
LIT	2	b		Is there training for lawyers on statelessness? If yes, please describe.	<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>	There is no specific training for lawyers on statelessness. Statelessness is barely on the curriculum of law schools. Statelessness and nationality laws are not part of the bar exams. There are no specific professional trainings for lawyers on statelessness, though it might come up as an issue in more general trainings on migration, asylum and nationality law.	
LIT	3	a	Pro Bono	Are there specialised lawyers, law firms or organisations providing free advice to stateless persons or those at risk of statelessness? If yes, please describe.	<ul style="list-style-type: none"> <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>: Provides the example of Liverpool Law Clinic providing legal assistance to stateless clients in the UK.</li> </ul>	There is no specialised dedicated law firm or organisation providing free advice to stateless persons or those at risk of statelessness. Several organisations provide free legal advice for migrants on general migration law issues, e.g. for undocumented migrants or for asylum seekers. Legal advisory services for refugees and asylum seekers are also approached by persons seeking statelessness recognition. A couple of lawyers have assisted a number of persons with their applications for statelessness status.	List of legal advisory services for asylum seekers and refugees (not specialised on statelessness issues) <a href="https://www.refugeecouncil.ch/assets/hilfe/170530-rbsadr-extern.pdf">https://www.refugeecouncil.ch/assets/hilfe/170530-rbsadr-extern.pdf</a>
LIT	4	a	Literature	Is there domestic legal academic literature on statelessness?		So far there is little academic literature on statelessness in particular, namely: <ul style="list-style-type: none"> <li>- Pablo Arnaiz, Staatenlose im internationalen und</li> </ul>	



				<p>If possible, please provide number of scholarly articles/references/bodies and hyperlinks etc.</p>		<p>schweizerischen Recht, in: Actualité du droit des étrangers, pp. 57-154</p> <ul style="list-style-type: none"> <li>- Véronique Boillet, „Généralités” (pp. 1-19); and “Le statut de l’apatride” (pp. 21-29), in: Actualité du droit des étrangers.</li> <li>- Olivia Brunner, De iure Staatenlose in der Schweizer Rechtsordnung, in: Achermann et al. (ed.), Jahrbuch für Migrationsrecht 2014/2015, Bern 2015, pp. 61-92</li> <li>- Karen Hamann, Statelessness Determination: The Swiss Experience, in: Forced Migration Review 54(2017), pp. 96-98</li> <li>- Nina Murray/Barbara von Rütte, Civil society asks the Human Rights Council to hold Switzerland to account on statelessness, ENS Blog Post, <a href="http://www.statelessness.eu/blog/civil-society-asks-human-rights-council-hold-switzerland-account-statelessness">http://www.statelessness.eu/blog/civil-society-asks-human-rights-council-hold-switzerland-account-statelessness</a></li> <li>- Minh Son Nguyen, La procédure de détermination de l’apatridie, in: Actualité du droit des étrangers, pp. 31-56</li> <li>- Brigitte Studer (translated by Kate Sturge), Citizenship as Contingent National Belonging: Married Women and Foreigners in Twentieth-Century Switzerland, in: Gender &amp; History: Special Issue: Gender, Citizenships and Subjectivities (2001), pp. 622-654</li> <li>- Véronique Boillet and Hajime Akiyama, Statelessness and Interna-</li> </ul>	
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