

COUNTRY BRIEFING
OCTOBER 2022

Albania



INTRODUCTION

The [Statelessness Index \(https://index.statelessness.eu/\)](https://index.statelessness.eu/) is an online comparative tool that assesses European countries' law, policy and practice on the protection of stateless people and the prevention and reduction of statelessness against international norms and good practice. The Index was developed and is maintained by the [European Network on Statelessness \(ENS\)](#),¹ a civil society alliance of over 170 organisations and individuals in 41 countries working to end statelessness and ensure that stateless people in Europe access their rights.

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

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



INTERNATIONAL AND REGIONAL INSTRUMENTS

Different international and regional treaties provide for the protection of stateless persons and the prevention and reduction of statelessness.

Albania is State party to three of the core statelessness conventions: [1954 Convention Relating to the Status of Stateless Persons](#), [1961 Convention on the Reduction of Statelessness](#) and the [European Convention on Nationality](#). It entered no reservations to these treaties, and all have direct effect in domestic law. Albania is also a party to almost all other relevant international and regional instruments with no reservations, except for the [Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession](#).

There is a definition of a stateless person in Albanian law, but it states that a stateless person is 'a person who is not a national of any State', which has a narrower scope than the definition in the 1954 Convention that specifies 'under the operation of its law'.

[Albania should consider aligning the definition of a stateless person with the 1954 Convention relating to the Status of Stateless Persons, and acceding to the Council of European Convention on the Avoidance of Statelessness in Relation to State Succession.](#)



STATELESS POPULATION DATA

States should collect reliable quantitative and qualitative data on statelessness and adopt and strengthen measures to count stateless persons on their territory.⁴ The availability of reliable data is linked to whether procedures to identify and determine statelessness exist. Identification of stateless people remains the first step to protecting their rights, but also leads to a better understanding of the challenges that need to be addressed.

Some data is available on the stateless population in Albania, but this is somewhat limited. The last census carried out in 2011 included a category 'stateless' for which data is available disaggregated by sex, but not by residence or documentation status, and this is now out of date. In 2011, 7,443 stateless persons were identified in the census (3,874 men and 3,569 women). A mapping study carried out by UNHCR and Tirana Legal Aid Society in 2018 identified 1031 children and adults at risk of statelessness in Albania. Civil registration authorities introduced

a tool to improve the identification of people at risk of statelessness in 2018.

There is no 'stateless' category in asylum and immigration data and no information is available on stateless people held in immigration detention.

The Government of Albania should take concrete steps to improve the recording of statelessness, including by harmonising and disaggregating data on stateless people in Albania and build the capacity of officials to accurately identify and record statelessness. It should consider carrying out a comprehensive exercise to accurately map the stateless population in Albania.



STATELESSNESS DETERMINATION AND STATUS

To be able to provide the protection and rights enshrined in the 1954 Convention, including a residence permit and the right to work, study and facilitated naturalisation, State parties need to be able to identify stateless people on their territory. UNHCR recommends that this is best fulfilled through a dedicated statelessness determination procedure.⁵

Albanian law provides that procedures for the application, assessment, approval and refusal of the application for statelessness status shall be adopted by an instruction of the Ministry in charge of public order and safety. To date, the Minister responsible for public order has not approved the bylaws. There is no formal dedicated training on statelessness for government bodies.

There is a facilitated route to naturalisation for stateless people in Albania, but access to it is hindered by the lack of a statelessness determination procedure. Stateless people may naturalise after seven years' legal residence in Albania and are exempt from certain requirements for naturalisation including minimum age, income, and property ownership, the requirement to have no convictions, and the language test. There is no stipulation for a fee in law, but applicants pay approximately 50 EUR and stateless persons are not exempt.

The Minister in charge of public order and safety should approve as soon as possible the bylaws for statelessness determination procedure in line with good practice to give full effect to the rights enshrined in the 1954 Convention and in Albanian law to stateless people, including a facilitated path to naturalisation. The Government of Albania should also ensure that stateless people have access to the full range of rights protected under the 1954 Convention.



DETENTION

Stateless persons face a heightened risk of arbitrary detention particularly where procedural safeguards to identify and determine statelessness and related barriers to removal are lacking.⁶

There are limited safeguards to prevent the arbitrary detention of stateless people in Albania. A country of removal should be identified prior to issuing a deportation order and detention decision, but statelessness is not proactively identified in detention decisions nor vulnerability assessments.

There is no evidence of stateless people being routinely detained but given the lack of a statelessness determination procedure, it is possible that some stateless people are detained in practice. The law allows for

alternative measures to be applied but it is not a requirement to exhaust all alternatives prior to detention.

Some limited procedural safeguards are in place, but there are barriers to effective remedies and obstacles to acquiring legal aid. People released from detention are not issued with any documentation nor protected from re-detention.

The Government of Albania should put in place robust mechanisms to identify and protect stateless people from arbitrary detention, including a referral mechanism to a procedure to determine statelessness and residence rights for those released from detention to protect against re-detention. It should also embed consideration of statelessness as a juridically relevant fact in all decisions to detain.



PREVENTION AND REDUCTION

As State party to the 1961 Convention and the European Convention on Nationality, Albania has obligations to prevent and reduce statelessness on its territory.

The Albanian nationality law in 2020 introduced a safeguard to ensure children born on the territory who would otherwise be stateless acquire Albanian nationality, complementing the existing safeguard for foundlings. The new safeguard is automatic, but it remains to be seen how it will be implemented in practice. Safeguards are also in place to prevent statelessness arising during adoption procedures. Children born to Albanian nationals abroad acquire nationality, but it is unclear what rights same-sex parents would have to confer nationality to a child.

Albania has pledged to address remaining gaps in the legal framework and has taken recent steps to prevent and reduce the risk of statelessness. However, children may still face a risk of statelessness if parents are undocumented or have irregularities in their documentation, particularly if born abroad. There is evidence that Romani and Egyptian communities are disproportionately impacted.

There are provisions on deprivation and renunciation of nationality that could lead to statelessness in some cases. New provisions for deprivation of nationality were introduced in 2020, including new powers to deprive naturalised Albanians of their nationality on national security grounds (not where it would lead to statelessness) and an additional safeguard to prevent statelessness arising through renunciation of nationality was removed.

The Albanian Government should fully implement the Law on Nationality, approved in 2020, and ensure that all children born on its territory who would otherwise be stateless automatically acquire a nationality at birth without conditions.

The Albanian Government should introduce further safeguards to prevent statelessness arising from any renunciation, loss, or deprivation of nationality.

SUMMARY OF RECOMMENDATIONS

The Government of Albania should:

- Align the definition of a stateless person in Albanian law with the 1954 Convention relating to the Status of Stateless Persons.
- Consider acceding to the Council of European Convention on the Avoidance of Statelessness in Relation to State Succession.
- Take concrete steps to improve the recording of statelessness, including by harmonising and disaggregating data on stateless people in Albania and build the capacity of officials to accurately identify and record statelessness.
- Consider carrying out a comprehensive exercise to accurately map the stateless population in Albania.
- Approve the bylaw for the statelessness determination procedure in line with good practice to give full effect to the rights enshrined in the 1954 Convention and in Albanian law to stateless people, including a facilitated path to naturalisation.
- Put in place robust mechanisms to identify and protect stateless people from arbitrary detention, including a referral mechanism to a procedure to determine statelessness and residence rights for those released from detention to protect against re-detention.
- Embed consideration of statelessness as a juridically relevant fact in all decisions to detain.
- Fully implement the Law on Nationality, approved in 2020 and ensure that all children born on its territory who would otherwise be stateless automatically acquire a nationality at birth without further conditions.
- The Albanian Government should introduce further safeguards to prevent statelessness arising from any renunciation, loss, or deprivation of nationality.

ENDNOTES

¹ <http://www.statelessness.eu/>.

² Lead country partner for the Statelessness Index in Albania is the Tirana Legal Aid Society (TLAS).

³ <https://index.statelessness.eu/country/albania>.

⁴ Conclusions of the Council of the European Union and the Representatives of the Governments of the Member States on Statelessness, 4 December 2015, <http://www.consilium.europa.eu/en/press/press-releases/2015/12/04/council-adopts-conclusions-on-statelessness/>

⁵ UNHCR (2014), Handbook on Protection of Stateless Persons,

<http://www.unhcr.org/uk/protection/statelessness/53b698ab9/handbookprotection-stateless-persons.html>.

⁶ ENS (2017) Protecting Stateless Persons from Arbitrary Detention: An Agenda for Change,

https://www.statelessness.eu/sites/www.statelessness.eu/files/attachments/resources/ENS_LockeInLimbo_Detention_Agenda_online.pdf.

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