

COUNTRY BRIEFING
AUGUST 2024

Sweden



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 180 organisations and individuals in 41 countries working to end statelessness and ensure that stateless people in Europe access their rights.

ENS worked with its member² to research and compile comparative information on statelessness in Sweden. This briefing summarises the findings on how Sweden's 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 Swedish Government for reform.

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

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

Sweden is State Party to the 1954 and 1961 UN statelessness conventions but retains reservations and has not transposed them fully into Swedish law. Sweden is party to most other relevant international and regional legal instruments, including the UN Convention on the Rights of the Child, which it has fully transposed into domestic law. It is not State Party to the Council of Europe Convention on the Avoidance of Statelessness in relation to State succession nor the International Convention on the Rights of all Migrant Workers and their Families.

Sweden should remove its reservations to the 1954 and 1961 UN statelessness conventions. Sweden should accede to the Council of Europe Convention on the Avoidance of Statelessness in relation to State succession, and to the International Convention on the Rights of all Migrant Workers and their Families.

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.³ Identification of stateless people is the first step to protecting their rights, but also leads to a better understanding of the challenges that need to be addressed. The availability of reliable data is linked to whether procedures to identify and determine statelessness exist.

There are several sources of disaggregated data on the stateless population in Sweden. For example, the population and housing censuses include the categories 'stateless', 'under investigation', and 'nationality unknown', and data is collected on stateless people granted asylum or nationality in Sweden. UNHCR conducted a mapping study of statelessness in Sweden in 2016. Some data is collected on stateless people in immigration detention, but this is only shared upon request with some NGOs. Without a statelessness determination procedure nor a definition of a stateless person in domestic law, it is very likely that statelessness in Sweden is underreported.

The Swedish Government should establish mechanisms to identify and record statelessness and clearly define and harmonise data categories to prevent underreporting or misreporting.

The Swedish Government should also ensure that authorities are trained to identify and record nationality or statelessness.



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.⁴

There is no definition of a stateless person in Swedish law. Statelessness can be identified when applying for asylum, an immigration permit, naturalisation, or when registering children born in Sweden, but there is no dedicated statelessness determination procedure leading to a dedicated statelessness status. There is no obligation on the authorities to consider statelessness in any procedure and the burden of proof varies between available procedures in law and practice. Positively, legal guidance published by the Migration Agency in 2023 provides some guidance on assessing statelessness as part of a person's identity in the asylum procedure and in the application for Swedish nationality. Procedural safeguards such as legal aid and interpretation are generally available in the asylum procedure. Most rights granted to stateless people in Sweden are not based on their statelessness but on the immigration or residence status granted through other procedures.

The Swedish Government should establish in law a dedicated statelessness determination procedure and protection status in line with UNHCR Guidelines and good practice.

The 1954 Convention definition of a stateless person should be incorporated into Swedish law.



DETENTION

Stateless people face a heightened risk of arbitrary detention particularly where procedural safeguards to identify and determine statelessness and related barriers to removal are lacking.⁵

There are gaps in protections to prevent the arbitrary detention of stateless people in Sweden. Statelessness is not juridically relevant in the decision to detain and although vulnerability assessments should be carried out prior to detention, statelessness is not considered a factor increasing vulnerability and assessments are not always thorough. Procedural safeguards in detention are relatively good although no information is provided concerning how to make an application for determination of statelessness. There is limited protection on release and a person may be released into destitution if they are not asylum seekers and did not hold a residence permit prior to detention.

The Swedish Government should consider statelessness as juridically relevant in decisions to detain and a factor increasing vulnerability.

The Swedish Government should strengthen protections against arbitrary detention of stateless people, in particular through ensuring that alternative measures to detention are applied in practice and providing adequate information to people about how to make a claim of statelessness.



PREVENTION AND REDUCTION

There are several gaps in Swedish law, policy and practice for the prevention and reduction of statelessness. Stateless people may face barriers to applying for naturalisation if they lack documentation to prove their identity, and the Government is considering making naturalisation requirements even stricter.

Children born stateless in Sweden must meet requirements that go beyond the 1961 Convention (such as permanent and habitual residence) to acquire Swedish nationality. There are safeguards in law to prevent statelessness for foundlings, those born to Swedish parents abroad, and adopted children. Births in Sweden must be registered with the Tax Agency promptly and the Migration Agency is notified if parents are not Swedish. Birth certificates are not universally issued, and no procedure exists to determine the nationality of a new-born child. If nationality or statelessness cannot be proven, children may be registered as having 'unknown nationality'. The government recently instructed an inquiry to suggest recommendations to increase information-sharing between public authorities to facilitate deportation, which may prevent families with irregular residence status from registering births.

The Swedish Government should put in place safeguards in law and practice to ensure that all children born in Sweden who would otherwise be stateless acquire Swedish nationality automatically at birth without imposing requirements that go beyond the 1961 Convention.

The Swedish Government should facilitate and guarantee immediate birth registration for all children born in Sweden irrespective of the residence status or identity of their parents, and put in place a clear framework to determine the child's nationality or statelessness as soon as possible after birth.

The Swedish Government should facilitate the naturalisation procedure for stateless people in line with its obligations under the 1954 Convention.

SUMMARY OF RECOMMENDATIONS

The Swedish Government should:

- Remove its reservations to the 1954 and 1961 UN statelessness conventions.
- Accede to the Council of Europe Convention on the Avoidance of Statelessness in relation to State succession, and to the International Convention on the Rights of all Migrant Workers and their Families.
- Establish mechanisms to identify and record statelessness and clearly define and harmonise data categories to prevent underreporting or misreporting.
- Ensure that authorities are trained to identify and record nationality or statelessness.
- Establish in law a dedicated statelessness determination procedure and protection status in line with UNHCR Guidelines and good practice.
- Incorporate the 1954 Convention definition of a stateless person into Swedish law.
- Consider statelessness as juridically relevant in decisions to detain and a factor increasing vulnerability.
- Strengthen protections against arbitrary detention of stateless people, in particular through ensuring that alternative measures to detention are applied in practice and providing adequate information to people about how to make a claim of statelessness.
- Put in place safeguards in law and practice to ensure that all children born in Sweden who would otherwise be stateless acquire Swedish nationality automatically at birth without imposing requirements that go beyond the 1961 Convention
- Facilitate and guarantee immediate birth registration for all children born in Sweden irrespective of the residence status or identity of their parents, and put in place a clear framework to determine the child's nationality or statelessness as soon as possible after birth.
- Facilitate the naturalisation procedure for stateless people in line with its obligations under the 1954 Convention.

ENDNOTES

¹ <https://www.statelessness.eu/>.

² Lars Olsson, Swedish Refugee Law Centre, <https://asylrattscentrum.se/>.

³ 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/>.

⁴ UNHCR (2014) Handbook on Protection of Stateless Persons, available at:

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

⁵ ENS (2017) Protecting Stateless Persons from Arbitrary Detention: An Agenda for Change, available at:

<https://www.statelessness.eu/updates/publication/protecting-stateless-persons-arbitrary-detention-agenda-change>

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