

COUNTRY BRIEFING
JANUARY 2023

Ireland



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 members to research and compile comparative information on statelessness in [Ireland](#).² This briefing summarises the findings on how Irish 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 Irish 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.

Ireland's record on these international and regional treaties is relatively poor. Although it is a State Party to both the [1954 Convention Relating to the Status of Stateless Persons](#) and the [1961 Convention on the Reduction of Statelessness](#), it retains reservations or made declarations to these instruments and neither Convention has been fully incorporated into domestic law.

Ireland is **not** a State Party to either of the Council of Europe Conventions relating to statelessness, and it has opted out of the [EU Returns Directive](#). Ireland also retains a reservation to the [European Convention on Human Rights](#) in relation to the provision of free legal aid. It is State party to all other relevant human rights instruments except for the [Convention on the Rights of Migrant Workers and their Families](#).

The Irish Government should consider withdrawing its reservation to the 1954 and 1961 Conventions as well as ensuring that these treaties are incorporated into domestic law.

It should also consider acceding to the [European Convention on Nationality](#) and the [Council of Europe 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.³ 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. The availability of reliable data is linked to whether procedures to identify and determine statelessness exist. A scoping paper on statelessness in Ireland, published by UNHCR in 2014, concluded that there was an absence of reliable data to estimate the size of the affected population.⁴

There is very limited data available on the stateless population in Ireland. The last census in 2016 included an option to record 'no nationality' on the census form. The 2016 census report does not report on how many people ticked this box. The CSO StatBank on Migration and Diversity contains data under this category and reports 1,167 respondents identified that they had 'no citizenship'.⁵ The most recent census, which took place in April 2022, asked respondents about nationality, providing an option to answer 'no citizenship'. Preliminary results are expected to be published in 2023.

The Government's monthly asylum data typically only identifies the top five nationalities of asylum applicants, and no information is published about the nationality of immigration detainees. It is further reported that a total of 7,455 people were refused entry to Ireland in 2019, including 50 people recorded as stateless.

The Irish Government should take concrete steps to improve the recording of statelessness, including by harmonising and disaggregating data on stateless people in Ireland. This should include stateless people held in immigration detention and subject to removal procedures.

The Irish Government should consider carrying out a comprehensive exercise to accurately map the stateless population on its territory.



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.⁶

Irish law does not set out a definition of a 'stateless person' and there is no dedicated statelessness determination procedure leading to a declaration of statelessness and adequate protection status. The State position is that there is no obligation to have an SDP but to the extent that it is accepted statelessness may need to be considered, this is done on an ad hoc basis having regard to the specific case under consideration.

Statelessness may be examined by the relevant competent authority in the context of other immigration, international protection, or nationality related procedures but there is no published official information either on how to claim statelessness or how the issue should be addressed by decision-makers, who receive only limited training. The burden and standard of proof are unclear when determining or identifying statelessness and the existence of safeguards such as legal aid and interpreting depends on the procedure. Stateless people may be granted a residence permit and the requirement to produce an identity document waived, but this may not be confirmed in writing and rights are not established in law.

Refugees and stateless people may apply for naturalisation after a reduced residence period of three years but granting of nationality is discretionary and it may be refused if the person is unable to prove their statelessness.

The Irish Government should introduce a dedicated statelessness determination procedure and protection status in line with UNHCR guidance and good practice. In particular, it should ensure that people determined to be stateless are granted a renewable residence permission valid for at least two years, accompanied by a travel document, the right to work, family reunification, access to healthcare and social assistance, and a route to facilitated naturalisation, as well as other 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.⁷

There are no dedicated immigration detention centres in Ireland, so immigration detainees are held in prisons. Immigration-related detention in Ireland is the exception rather than the norm and stateless

people are not routinely detained, but there are some gaps in the legal framework to protect them from arbitrary detention. There is no requirement for a country of removal to be identified in the deportation order and statelessness is not proactively considered in the decision to detain. The law does not explicitly provide that detention should only be used as a measure of last resort after all alternatives have been exhausted and legal aid is not guaranteed. People released from detention are not issued with identification documents nor do they have specific rights unless they have applied for international protection.

The Irish Government should take steps to protect stateless persons from arbitrary detention by introducing a statelessness determination procedure and protection status, embedding consideration of statelessness as a juridically relevant fact in all decisions to detain, and closing any existing legislative gaps.



PREVENTION AND REDUCTION

As State party to the 1961 Convention on the Reduction of Statelessness, Ireland has obligations to prevent and reduce statelessness on its territory.

There are some safeguards to prevent and reduce statelessness in Ireland, but there are also gaps in law and practice. A child born stateless on the territory may acquire Irish nationality if they are 'not entitled to citizenship of any other country'. However, children who may be entitled to the nationality of one of their parents by law but cannot acquire it in practice are excluded from this safeguard. There is no published guidance on how the safeguard is implemented. The law prevents statelessness in the case of foundlings, adopted children and children born abroad to Irish nationals. However, it is unclear if the provision on foundlings applies to older children. The lack of regulation of all forms of assisted human reproduction may have consequences for some children, particularly children of same-sex couples born abroad and if the Irish parent is not a birth parent, although the 2022 Health (Assisted Human Reproduction) Bill, which makes provisions for the intending parent/s to apply for parental orders, may address these gaps when enacted.

Birth registration is a legal requirement and there are no reports of specific barriers. However, there is no mechanism for determining a child's nationality other than if the child is entitled to Irish nationality and applies for a passport.

There are provisions in law permitting revocation of citizenship for naturalised Irish nationals in certain circumstances and there is no specific safeguard against statelessness in such cases. In October 2020, the Supreme Court ruled that the procedure to deprive naturalised Irish nationals of their nationality was unconstitutional, stating that the process must provide minimum procedural safeguards. However, since the judgment, there has been no change to Ministerial powers in this regard and very limited information is published by the Department of Justice. There are also no safeguards in cases of renunciation or voluntary loss of nationality.

The Irish Government should publish guidance on the practical implementation of the safeguard against childhood statelessness provided for in the Irish Nationality and Citizenship Act.⁷

The Irish Government should introduce safeguards to prevent statelessness in all cases of revocation of citizenship, deprivation, renunciation or voluntary loss of nationality.

SUMMARY OF RECOMMENDATIONS

The Irish Government should:

- Consider withdrawing its reservation to the 1954 and 1961 Conventions as well as ensuring that these treaties are incorporated into domestic law.
- Consider acceding to the European Convention on Nationality and the Council of Europe 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 Ireland, and consider carrying out a comprehensive exercise to accurately map the stateless population on its territory.
- Introduce a dedicated statelessness determination procedure and protection status in line with UNHCR guidance and good practice.
- Ensure that people determined to be stateless are granted a renewable residence permission valid for at least two years, accompanied by a travel document, the right to work, family reunification, access to healthcare and social assistance, and a route to permanent residence and facilitated naturalisation, as well as other rights protected under the 1954 Convention.
- Take steps to protect stateless persons from arbitrary detention by introducing a statelessness determination procedure and protection status, embedding consideration of statelessness as a juridically relevant fact in all decisions to detain, and closing any existing legislative gaps.
- The Irish Government should publish guidance on the practical implementation of the safeguard against childhood statelessness provided for in the Irish Nationality and Citizenship Act
- Introduce safeguards to prevent statelessness in all cases of revocation, deprivation, renunciation or voluntary loss of nationality.

ENDNOTES

¹ More information available at: <https://www.statelessness.eu/>

² <https://index.statelessness.eu/country/ireland>

³ Council of the European Union (2015), Conclusions on Statelessness, available at:

<http://www.consilium.europa.eu/en/press/press-releases/2015/12/04/council-adopts-conclusions-on-statelessness/>

⁴ UNHCR (2014) Scoping Paper: Statelessness in Ireland, available at: <https://www.refworld.org/pdfid/5448b6344.pdf>

⁵ See Stat Report for this search: <https://data.cso.ie/>

⁶ UNHCR (2014) Handbook on Protection of Stateless Persons, available at:

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

⁷ ENS (2017) Protecting Stateless Persons from Arbitrary Detention: An Agenda for Change,

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

CONTACT

Catherine Cosgrave

Managing Solicitor, Immigrant Council of Ireland

catherine@immigrantcouncil.ie

Nina Murray

Head of Policy & Research, European Network on Statelessness

nina.murray@statelessness.eu



London, United Kingdom

Media: +44 7522 525673

info@statelessness.eu

www.statelessness.eu



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