



THEMATIC BRIEFING | UPDATED NOVEMBER 2024

Birth registration and the prevention of statelessness in Europe:

Identifying good practices and remaining barriers

THE STATELESSNESS INDEX

The Statelessness Index (<https://index.statelessness.eu/>) is an online comparative tool developed and maintained by the European Network on Statelessness (ENS),¹ 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. ENS has worked with its members to research and compile comparative information on statelessness in 32 countries in Europe so far, with further countries to be added in future updates. For information on the Statelessness Index methodology and how country data is gathered and analysed, see: (<https://index.statelessness.eu/about/methodology>).

How is birth registration assessed in the Statelessness Index?

The Statelessness Index and country analysis presented in this briefing use the following set of benchmarks to assess countries' law, policy and practice on birth registration. The benchmarks are drawn from international and regional human rights standards, soft law, relevant reports, and consultation with experts. These benchmarks and their sources can be viewed in more detail on the [Statelessness Index website](#).

- 1.** Law and practice provide that all children are registered immediately upon birth, but not later than one year after birth, regardless of the ethnicity, disability, illness, migration or residence status, sexual and/or gender identity of their parents or family members.
- 2.** Documentary proof of birth is issued to children regardless of ethnicity, disability, illness, their or family members' residence/documentation status or parents' sexual or gender identity.
- 3.** Any official determination of the child's nationality is carried out by a competent authority with the necessary expertise, in line with good practice, and follows an established procedure that adheres to the best interests of the child.
- 4.** The State determines whether a child would otherwise be stateless as soon as possible after birth. Such a period does not exceed five years.
- 5.** There are no mandatory requirements for authorities to report undocumented individuals to immigration authorities. State clearly prohibits the sharing of information about migrants suspected of irregular presence with immigration authorities and these firewalls are binding on State authorities and the private sector.
- 6.** Free and prompt birth registration is assured in law and practice even if the period within which the birth should have been declared has expired.

The Index assessment for each of the 32 countries is intended to reflect their overall performance on birth registration across the six benchmarks. Elements of good practice from different countries as well as barriers to realising birth registration are highlighted throughout this briefing. These examples are illustrative and, given country performance varies both within and across the different benchmarks, they do not necessarily reflect the country's performance and consequent assessment on birth registration overall. The Statelessness Index data is updated on a biannual cycle, so the overall assessment may change over time. This briefing was published in November 2024 based on Index data accurate as of January 2024. All sources for the assessments and examples presented in this briefing can be found in the Statelessness Index country surveys.

1. BIRTH REGISTRATION AND PREVENTING STATELESSNESS

Most, but not all of us, have had our births registered. Lack of birth registration is not the same as statelessness, yet it heightens the risk of leaving children without a nationality. Given the key information birth registration provides about individuals and their links to a State, either through the parents or place of birth, not having a birth registered or a birth certificate evidencing registration can contribute to difficulties establishing these links and consequently expose them to the risk of statelessness.² Children in this situation face severe disadvantages accessing rights and services, including school, healthcare, and social security, whilst also facing an increased risk of exploitation, such as child marriage, trafficking, forced recruitment, and child labour.

Whilst regional data suggests that Europe as a whole has high rates of birth registration,⁵ data analysis from the Statelessness Index demonstrates that barriers to birth registration in some countries in Europe persist, preventing universal birth registration from being realised across the region.⁶ There is no standardised procedure nor regional harmonisation of birth registration. As a consequence, some children continue to be at risk of statelessness and prevented from realising their rights in Europe.

This briefing is part of a series of thematic briefings and summarises how the 32 countries featured in the Statelessness Index perform against international norms and good practice in their birth registration law, policy, and practice. It introduces the relationship between birth registration and the prevention of statelessness, provides an overview of norms and good practices on birth registration, and presents a state of play analysis on birth registration law, policy, and practice in Europe using the data from the Statelessness Index. It highlights groups who are disproportionately affected by

STATELESS PERSON

A stateless person is defined in international law as someone “who is not considered as a national by any State under the operation of its law”.³ This definition is part of customary international law and has been authoritatively interpreted by UNHCR as requiring “a mixed question of fact and law.”⁴ A person who meets this definition is stateless, whether or not their statelessness has been officially recognised.

UNDETERMINED OR UNKNOWN NATIONALITY

Refers to a situation where a person’s nationality or lack of nationality is not yet confirmed. These terms should be used with extreme caution for the shortest possible time and should always trigger a formal determination of the person’s nationality or statelessness. People who identify themselves as stateless should generally be recorded as stateless and referred to an appropriate procedure to determine their statelessness (or nationality), in line with international law.

BIRTH REGISTRATION

Birth registration is the official recording of a birth in the civil registry by a country’s civil registrar. It records both the incidence of the birth and its characteristics (such as the place of birth, and the parents).⁷ Birth registration takes place in line with a country’s legal requirements and authenticates a person’s existence in law, providing legal proof of and information about the person’s identity, which is vital information for the acquisition of a nationality.

BIRTH CERTIFICATE

A birth certificate is a document issued by a country’s civil registrar. It provides proof that the child has had their birth registered and is essential evidence of a child’s family ties as well as their place of birth. These are key aspects of identity and can be critical to establishing the child’s nationality, as nationality is usually acquired either through the parents (*jus sanguinis*), the place of birth (*jus soli*), or a combination of the two. A birth certificate, therefore, acts as proof that the birth registration took place and of the child’s legal identity.⁸

discriminatory barriers to birth registration and suggests key action areas for ensuring universal access to immediate, free birth registration as a way of safeguarding every child's right to a nationality and preventing childhood statelessness in Europe.

LEGAL IDENTITY

Legal identity is defined by the UN as the basic characteristics of a person's identity, such as, name, sex, place and date of birth conferred through birth registration and the issuance of a birth certificate by an authorised civil registration authority. In the absence of birth registration, legal identity may be conferred by a legally recognised identification authority.⁹

2. BIRTH REGISTRATION AND GOOD PRACTICE

The right to birth registration for all is enshrined in various international and regional human rights instruments, with three frameworks relevant to the European context: the United Nations, Council of Europe, and European Union. Most countries in Europe are Council of Europe members. Of the 46 Council of Europe Member States, 27 are also members of the European Union. Within each framework, different instruments may or may not apply, depending on whether the State in question is party to them

ARTICLE 7 OF THE CONVENTION ON THE RIGHTS OF A CHILD (CRC)

1. The child shall be **registered immediately after birth** and shall have the right from birth to a name, the **right to acquire a nationality** [...].

2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations **under the relevant international instruments** in this field, **in particular where the child would otherwise be stateless**.

The right to a nationality is a right that is '**essential for the protection of every child**'.¹⁰ As signatories to the CRC, all States in Europe must implement Article 7 to provide the right of every child to be registered immediately after birth and acquire a nationality, and Article 8 to respect the right of the child to preserve their identity, including nationality, in compliance with their obligations under relevant international instruments. Obligations deriving from the 1961 Convention on the Reduction of Statelessness require States to grant nationality to children who would otherwise be stateless and must be interpreted in light of the CRC.¹¹ This includes the underlying principles of (i) non-discrimination (CRC Article 2) and (ii) that all actions concerning children, including in the area of nationality, must be undertaken with the best interests of the child as a primary consideration (Article 3). Birth registration is key to preventing statelessness and securing the child's right to a nationality, due to the information it provides about a person's links to a State.¹² It is therefore key to implementing both the Convention on the Rights of the Child and the 1961 Convention.

INTERNATIONAL & REGIONAL NORMS AND GOOD PRACTICE

- 1989 Convention on the Rights of the Child, Articles 3, 7 & 8
- 1954 Convention Relating to the Status of Stateless Persons
- 1961 Convention on the Reduction of Statelessness
- International Covenant on Civil and Political Rights, Article 24(2)
- Convention on the Rights of Persons with Disabilities, Article 18
- Convention on the Protection of Rights of All Migrant Workers and Members of Their Families, Article 29
- Joint general comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration
- Joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return
- Human Rights Council Resolution 20/4 (2012) The Right to a Nationality: Women and Children
- UNHCR Guidelines on Statelessness No. 4: Ensuring Every Child's Right to Acquire a Nationality through Articles 1-4 of the 1961 Convention on the Reduction of Statelessness (2012)
- UNHCR Global Action Plan to End Statelessness 2014-2024, Action 7
- UN Guiding Principles on Internal Displacement, Principle 20
- Executive Committee of the High Commissioner's Programme, Conclusion on Children at Risk No. 107 (LVIII) (2007)
- Sustainable Development Goal 16.9
- Global Compact on Refugees, Civil Registries
- Global Compact on Safe, Orderly and Regular Migration, Objective 4
- Report of the Special Rapporteur on violence against women and girls, its causes and consequences, Reem Alsalem - Violence against women and girls, nationality laws and statelessness (A/78/256) (2023)
- UN Human Rights Council, The right to a nationality: equality in nationality rights in law and in practice, Resolution A/HRC/RES/53/16 (2023)
- UN Human Rights Council, Birth registration and the right of everyone to recognition everywhere as a person before the law, Resolution A/HRC/RES/52/25 (2023) Joint general recommendation No. 31 of the Committee on the Elimination of all forms of Discrimination against Women and No. 18 of the Committee on the Rights of the Child (2019) on harmful practices



United Nations

- General Comment No. 7 of the Committee on the Rights of the Child (2005) on Implementing child rights in early childhood
- General comment No. 15 of the Committee on the Rights of the Child (2013) on the right of the child to the enjoyment of the highest attainable standard of health (Article 24)
- General comment No. 20 of the Committee on the Rights of the Child (2016) on the implementation of the rights of the child during adolescence
- UNHCR, Best Interests Procedure Guidelines (2021)
- Standing Committee of European Doctors, Statement on the independence of the medical profession (2024)
- UNHCR and UNICEF, Background Note on Sex Discrimination in Birth Registration (2021)
- Human Rights Committee, D.Z. v. Netherlands (2021)

- European Convention on Human Rights, Articles 8 & 14
- 1997 European Convention on Nationality
- Council of Europe Recommendation CM/Rec (2009) 13 on the Nationality of Children
- Parliamentary Assembly of the Council of Europe, Resolution 2099 (2016) on the need to eradicate statelessness of children
- European Commission Against Racism and Intolerance (ECRI) General Policy Recommendation No. 16 (2016) on safeguarding irregularly present migrants from discrimination
- 2006 Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession (CASRSS)
- European Court of Human Rights, G.T.B. v. Spain (2023)
- European Court of Human Rights, D.B. and others v. Switzerland (2022)



Council of Europe

- Charter of Fundamental Rights of the European Union
- European Parliament Resolution on the Protection of Children in Migration (2018)
- European Parliament Minimum Standards for Minorities in the EU (2020)
- 1967 European Convention on Consular Functions: Article 46
- European Parliament Resolution on children's rights on the occasion of the 30th anniversary of the UN Convention on the Rights of the Child (2019)
- European Parliament Resolution on LGBTIQ rights in the EU (2021)
- Court of Justice of the European Union, V.M.A. v Bulgaria, Case C-490/20 (2021)



European Union

3. BIRTH REGISTRATION IN EUROPE: A REGIONAL OVERVIEW

According to available global data, around one quarter of children under the age of five have not had their births registered.¹³ Children are not always provided with proof of birth registration, meaning an estimated 230 million children under the age of five do not have birth certificates.¹⁴ Regional data suggests that birth registration levels in Europe are high, with estimates ranging from 98-100% suggesting that no child under the age of five in Western Europe is without a birth certificate.¹⁵ However, there is a lack of available, comparable and recent data in the region, and evidence from the Statelessness Index suggests that these estimates may mask some barriers to birth registration in the region.

Analysis of the Statelessness Index data demonstrates that, whilst some countries in Europe perform well across most international norms and good practices on birth registration, there are still barriers preventing children in some countries from realising their right to immediate birth registration. Very little change has been reported in recent years among the Statelessness Index countries, suggesting that progress towards achieving universal birth registration in Europe is slow, and new challenges are emerging.

Stringent evidentiary requirements, and access to birth registration procedures being conditional on parents' residence or documentation status, as well as discrimination against LGBTIQ* families, mean that some children are prevented from having their births registered and are not being provided with a birth certificate in some countries. Fees and additional requirements, such as complex court procedures, proof of paternity or DNA testing, create further barriers to accessing free and prompt birth registration after the deadline for registration has passed.

Most countries lack formal procedures for determining whether a child has acquired a nationality in cases where they may 'otherwise be stateless'. In some cases, countries insert an assumed nationality (or 'unknown nationality') at the point of birth registration or on the birth certificate, which can be difficult to change later and may mean that States are unaware or do not identify that a child born on their territory may be stateless. This has implications for the functioning of safeguards to ensure every child's right to acquire a nationality. Laws that require health professionals and civil registry officials to report people who are undocumented or with irregular residence status to immigration authorities, as well as reports of this happening in practice in some countries where there is no such requirement, also deter parents from approaching registration authorities and hinder access to birth registration for children in migration. Due to discrimination, certain groups are disproportionately affected by barriers to birth registration including members of minority groups such as Romani people, refugees and migrants, and children of same-sex couples.

MEASURING BIRTH REGISTRATION

There is a critical difference between so-called registration "completeness", a measure used by statisticians, and the achievement of Universal Birth Registration. On the UN Statistics Division website, for example, statistics only show whether countries have birth registration rates of more than 90% of vital events being registered.¹⁶ Whilst less than 10% of births remaining unregistered may not appear statistically significant, it is essential to interrogate these statistics further to understand who is still falling through the gaps and why. The way birth registration rates are measured may also mean that some children are not captured in national birth registration data.

In particular, marginalised populations are more likely to face barriers to birth registration, such as migrants and refugees, minority groups, undocumented people, or families living in areas or circumstances less likely to be captured in national household survey data, such as those living in orphanages, residential care homes or hospitals, in refugee or internal displacement camps, asylum reception centres, informal settlements, or homeless or nomadic people. This briefing uses the definition of 'universal birth registration' to assess countries' law, policy, and practice, which goes beyond aggregate birth registration rates and considers the principle of non-discrimination, in other words, whether every person is registered regardless of their race, religion, national origin, sex, or any other trait.

BIRTH REGISTRATION: HOW STATELESSNESS INDEX COUNTRIES COMPARE



POSITIVE



Spain



SOMEWHAT POSITIVE



Czechia



Georgia



Ireland



Norway



Poland



Portugal



POSITIVE AND NEGATIVE



Albania



Austria



Belgium



Bulgaria



France



Germany



Greece



Hungary



Italy



Latvia



Malta



Netherlands



Romania



Slovenia



Switzerland



Ukraine



United Kingdom



SOMEWHAT NEGATIVE



Croatia



Cyprus



Moldova



North Macedonia



Serbia



Slovenia



Sweden



Türkiye



NEGATIVE

4. IMMEDIATE BIRTH REGISTRATION

According to international norms and good practice, national law and practice should provide that all children are registered immediately after birth regardless of ethnicity, disability, illness, migration, or residence status, sexual and/or gender identity of their parents or family members.¹⁷ The requirement under Article 7 of the Convention on the Rights of the Child to register the child ‘immediately after birth’ implies the need to register the birth as soon as possible and act with urgency, in a matter of days rather than months.¹⁸ Registration is more likely to happen immediately after the child is born and doing so increases the likelihood of accurately recording information about the birth.¹⁹

GOOD PRACTICE

Children born on the territory

Of the 32 countries featured in the Statelessness Index, almost all demonstrate at least some good practice in this area, with the law in most cases providing that all births in the country are registered immediately regardless of the status of the child’s parents. However, often what varies is how this is then implemented in practice.

An example of good practice in this area is the provision in law for flexibility in documentation requirements for groups of people less likely to be able to present certain documents (for example, accepting photocopies where original documentation has been lost or destroyed, or waiving documentation requirements and instead accepting declarations or witness statements).²⁰ Some countries, such as **Austria, Czechia, and Portugal** provide for this, enabling parents who are less likely to be able to provide certain documents, such as refugees and asylum seekers, to register the birth of their child. In other cases (including in **Bulgaria, France, and Poland**), whilst flexibility may not be provided for in law, documentation requirements are routinely waived in practice to facilitate birth registration.



FLEXIBLE DOCUMENTATION REQUIREMENTS IN CZECHIA

In Czechia, different documents are required to register a child’s birth depending on the situation. In most cases, registration is carried out automatically by the health facility where the child was born. If the child is born at home and the parents are married, one must present their ID or passport; if they are unmarried, both present their birth certificates; if the father is unknown, the mother presents her birth certificate. The obligation to present documentation for birth registration can be waived in special circumstances, such as in the case of refugees and asylum seekers, with a solemn declaration provided instead, facilitating access to birth registration procedures.²¹

Other examples of good practice include the authorities having the power to initiate birth registration *ex officio* if parents miss the deadline, which is the case in **Albania**. In **Greece**, undocumented mothers about to give birth must be admitted to public hospitals and issued with an ad-hoc ID including their personal information based on a statement, to assist with the registration of the child’s birth.



RECENT REFORMS IN NORTH MACEDONIA TO FACILITATE IMMEDIATE BIRTH REGISTRATION

In 2023, North Macedonia introduced amendments to the Law on Civil Registry, which mandate the immediate registration of every child born on the territory no later than 45 days after birth, irrespective of the nationality or residence status of the parents. The changes also introduced a simplified and facilitated procedure for late birth registration for those cases identified by the State in 2018 and 2019. Further changes to the Law on Registration of Residence and the Law on Identification Documents introduced a simplified procedure to register residence at the address of a social welfare centre for those who live in informal settlements or are homeless, to help facilitate access to legal identity. Barriers to accessing immediate birth registration were disproportionately impacting on Romani communities in the country, so these changes represent important progress towards preventing and reducing statelessness among Roma, as well as others in situations of vulnerability, in North Macedonia.

Children born in transit and on the move

There are also new and emerging areas of good practice with regards to the situation of children in migration who are born in transit to a country of asylum and their births have not been registered in the country of birth. In such situations, the country of asylum may be the only country able to register the birth of the child, if the country through which the family passed in transit and where the child was born does not have any record of their presence in the country. Courts in **Spain** have upheld the rights of such children to be registered in the host country to facilitate their birth registration, access to rights on an equal basis with other children, and to prevent statelessness, recognising that the child would otherwise remain without any registration which is not in their best interests.



CHILDREN BORN IN TRANSIT: GROUNDBREAKING JUDGMENTS FROM SPAIN

The Court of Appeal of Gipuzkoa in Spain, in its judgment no. 341/2022 dated 11 May 2022, held that, to respect the fundamental rights and best interests of a child born abroad on route to Spain whose birth had not been registered in any other country, they should be registered by the Central Civil Registry in Spain. The court noted that the registration of birth is essential for the child to have a legal identity, acquire a nationality, and prevent a violation of their fundamental rights. This judgment explicitly invoked the right to a nationality as recognised in Article 15.1 of the Universal Declaration of Human Rights and emphasised the best interests of the child to counter the Ministry of Justice's appeal. The Court argued that allowing the child to continue in a state of statelessness would place her in a situation of inequality with respect to other minors, with a significant reduction in her basic and fundamental rights.²²

BARRIERS TO IMMEDIATE BIRTH REGISTRATION

Conditions relating to the documentation or residence status of the parents

Many countries in the Statelessness Index demonstrated some barriers to immediate, free birth registration either in law, policy or practice. A key barrier identified is that access to birth registration is often contingent on parents' residence or documentation status. In **Latvia, Moldova, Montenegro, Serbia, Türkiye, and Ukraine**, a child can usually only be registered if the parents (particularly the mother) are registered themselves with the authorities or are able to submit certain identification documents. In the **Netherlands**, a valid identification document is required for registration and, although certain options are provided for registering the birth of a child whose parents do not have residence status, if they are undocumented, this is difficult in practice. In **Albania, Montenegro, Romania, Sweden, and Switzerland** parents may also face difficulties in practice if they are undocumented, particularly where the child is born abroad to national parents (in the case of **Albania** and **Romania** for example).

According to the law in **Germany**, children must be registered immediately, but certain documents such as parents' birth certificates, marriage certificates, and recognised passports may be required. Although the law allows for some flexibility, whether this flexibility is implemented in practice varies widely. If there is no marriage certificate, German officials may only register the name of the mother, which could lead to a risk of statelessness if the laws of her country of origin do not allow women to confer their nationality to their children (and the child does not acquire German or any other nationality). In **Cyprus**, there have been reports of undocumented parents being asked to present passports or other documents to prove legal stay before allowing birth registration to take place.

Such evidential requirements clearly impact on access to birth registration for refugees and migrants whose documents may have been left behind, lost, destroyed or never issued in the first place. Conditionality of birth registration on the parents' residence status also hinders access for migrants with irregular residence status. Children born in transit to Europe face barriers to birth registration, as, despite some recent positive judgments in **Spain** (see above), few European States have provisions in place for these children to acquire a birth certificate or equivalent documentation.²³

The strict and numerous evidential requirements for registering children's births in some countries also disproportionately impact on Romani²⁴ and other minority communities who can face difficulties meeting these requirements due to marginalisation and discrimination. Romani communities face intergenerational barriers to accessing documentation and are less likely to have their births registered than other populations in Europe. Despite legislative amendments and policy changes in recent years in attempts to simplify procedures and improve access to birth registration, challenges remain for Romani people, including deep-rooted antigypsyism, discriminatory legislation and policies, and prejudicial attitudes of registry officials. Barriers to reproductive healthcare faced by Romani women also create difficulties for birth registration. Living in rural areas far from health centres, undocumented status, and lack of health insurance or financial means may lead to Romani women giving birth at home, leading to reduced access to birth registration due to the additional documentation required.²⁵ Whilst there has been some recent progress in some countries, challenges accessing birth registration for Romani communities have been reported in **Albania, Georgia, France, Moldova, Montenegro, North Macedonia, Serbia, Romania, and Ukraine**, among others.



REMAINING CHALLENGES FOR SERBIA'S ROMANI POPULATION IN ACCESSING IMMEDIATE BIRTH REGISTRATION

Legislative amendments passed in Serbia in 2012 introduced a court procedure to facilitate access to late birth registration for people who have been unable to register their births in the birth registries. However, bylaws on birth registration requiring parents to present birth certificates and identity documents to register the birth of a child immediately after birth remained in force and continue to disproportionately impact on the Romani population. Children born in Serbia to undocumented mothers still cannot be issued with a birth certificate at birth.²⁶

5. DOCUMENTARY PROOF OF BIRTH

International norms and good practice require States to issue documentary proof of birth to children regardless of ethnicity, disability, illness, their or their family members' documentation or residence status, or parents' sexual or gender identity.²⁷ In the authoritative guidance provided in their joint general comments, the UN Committee on the Rights of the Child and the Committee on the Protection of Migrant Workers urge States to ensure that all children not only have their births registered immediately, but are also issued with birth certificates, irrespective of their or their parents' migration status.²⁸

GOOD PRACTICE

The majority of the 32 countries featured in the Statelessness Index demonstrate some elements of good practice in this regard. All children, regardless of their or their parents' documentation or residence status should be issued with birth certificates upon birth registration, and States should take all necessary steps to ensure a birth certificate is provided for every child. Positively, in most countries, children are issued with a birth certificate upon registration, without any further action being required by the child or the parents.



ISSUANCE OF BIRTH CERTIFICATES IN AUSTRIA

All births in Austria must be communicated (usually by the hospital or medical professional present at birth) to the civil registry office in the place of birth within seven days, regardless of nationality and legal status. Austrian civil registry offices are obliged to immediately register all births notified to them and issue birth certificates containing details of the place and time of birth, the name of the child and the (legal) parents. Parents must submit documents confirming their nationality and civil status but if documents cannot be presented, civil registrars can conduct *ex officio* investigations or oral hearings and should be flexible and issue correct and fully valid birth certificates to people who cannot provide documents confirming their identity, nationality or family status.

BARRIERS TO ISSUING DOCUMENTARY PROOF OF BIRTH TO PARENTS

Issuance of birth certificate requires additional action from the parents

Some countries do not routinely issue birth certificates to all parents (or at all). In **Belgium**, all birth certificates are kept in a central registry of electronic records (Database of Civil Status Deeds - DABS) and are only issued to parents on request. In the **UK**, a fee is required to issue a birth certificate. **Sweden** does not issue international birth certificates, but a population registration certificate may be issued on request, which

confirms the information on the individual held by the Tax Agency. In **Norway**, parents receive confirmation of registered Norwegian national identity number and name, which is automatically sent to their *Altinn*, an online tax administration account inaccessible to anyone without a residence permit in Norway. Ordering a birth certificate requires at least one parent to have both an *Altinn* account and a *BankID* (an online login for accessing banking and public services), which requires a Norwegian bank account and is virtually impossible for non-Norwegians without a valid passport to acquire. This means that parents without a residence permit in Norway or a valid passport must go through additional steps to request a birth certificate from the Tax Administration.

Conditions relating to the documentation or migration status of the parents

In some countries, children may not receive a birth certificate or documentary proof of their birth due to their parents' residence or documentation status preventing their births from being registered. In **Latvia, Moldova, Serbia, Türkiye, and Ukraine**, for example, children of undocumented parents who cannot have their births registered will not receive a certificate. In **Croatia**, if the parents are undocumented, birth certificates are issued but not completed. In **Bulgaria**, where parents' identity documents are missing, the child will be issued a birth certificate, but the parent cannot acquire a copy of that certificate. In **Greece**, the online birth registration procedure requires access to the citizens' taxation system to print the birth certificate. There are indications that stateless people, undocumented migrants, and asylum seekers face difficulties accessing a birth certificate without a social security number to access the taxation system. In **France**, in the case of asylum seekers, a birth certificate is only issued at the end of the procedure if the asylum application is accepted by the Office for the Protection of Refugees and Stateless Persons.



PROVISION OF EXTRACTS FROM THE BIRTH REGISTRY IN GERMANY

In Germany, if the required documents cannot be presented, parents do not receive a birth certificate but are instead issued, sometimes with a delay, with an extract from the birth register, which contains the notes 'identity not established' and 'name not established'. While parents await the extract from the birth register, they are unable to apply for child support. Court rulings have demonstrated that this can lead to practical problems as the extract does not have the same evidentiary value as a birth certificate and could prevent access to different parental entitlements, preventative healthcare, and the automatic issuance of a tax number, which in turn prevents access to certain social security entitlements.²⁹ No international version of the extract is issued, so it is only in German, and an extract (as opposed to an original birth certificate) may not be accepted by the authorities in another country for the purpose of civil registration or acquiring a nationality. Although some civil registry offices collect data on the number of children issued with extracts, data is not collected nationally, so it is unclear how many children in Germany are affected.

Non-recognition of same-sex parents

The enjoyment of LGBTIQ* rights varies across Europe, including the recognition of same-sex partnerships or marriages and the recognition of legal parentage between children and their non-biological LGBTIQ* parents.³⁰ As a result, LGBTIQ* families in Europe can face problems with birth registration and access to birth certificates, putting children in these families at risk of statelessness in some cases. Issues may arise from the failure of authorities in one State to recognise birth certificates issued in another State, which include the names of both same-sex parents on the certificate. In other cases, national legislation and policy mean that it is not possible to register the birth of the child where they have same-sex parents, or to include both parents on a birth certificate. In many countries, including **Bulgaria, Czechia, Georgia, Greece, Italy, Moldova, Montenegro, Poland, Romania, Serbia, and Türkiye**, same-sex parenthood is not legally recognised and/or cannot be reflected in the birth certificate, creating obstacles to the acquisition of identity documents, a

passport, or other essential documentation to evidence the acquisition of nationality and exercise the rights attached to it. This has led to reports of discrimination faced by children of same-sex parents, especially those born abroad to nationals of these countries, including that the authorities refuse to issue a birth certificate or to transcribe a birth certificate issued abroad that recognises both parents. The European Court of Justice has issued two ground-breaking judgments against **Poland** and **Bulgaria**, requiring the authorities to issue identity documents to children born to same-sex parents abroad (where one of the parents is a national) without requiring a birth certificate to be drawn up beforehand, but there have been issues with implementation in practice.³¹



REFUSAL BY POLAND TO ISSUE BIRTH CERTIFICATES RECOGNISING SAME-SEX PARENTS

In June 2022, the European Court of Justice delivered a ground-breaking judgment in a case concerning a child born in Spain to a Polish mother and an Irish mother. The Polish authorities refused to issue a birth certificate that recognised the parentage of both mothers in line with the Spanish birth certificate. The Court held that Poland must issue identity documents to the child and recognise the birth certificate issued in another EU Member State. This obligation exists regardless of the transcription of such a birth certificate into the Polish register. The judgment triggered preparations to amend the Polish law on civil status records to ensure that the refusal to transcribe civil status records does not lead to a situation where a Polish national is unable to obtain a Polish passport, identity card, or social security number. However, the proposals put forward in the draft law do not adequately address the issue and have been criticised by the Polish Commissioner on Human Rights due to their discriminatory effect and unequal treatment of same-sex parents and their children.³²

The Network of European LGBTIQ* Families Associations (NELFA) has been collecting cases demonstrating issues faced by rainbow families when crossing borders, including those related to the recognition of birth certificates and risks of statelessness for children of same-sex parents.³³ The examples collected demonstrate good practice in **Spain**, with same-sex parents both being included on issued birth certificates, recognising and providing proof of the child's links to both parents.

Children born in conflict settings or areas of territorial dispute

Children born in areas of territorial dispute or conflict settings can face barriers to accessing a birth certificate or documentary proof of their birth. Children born in the non-government-controlled areas of **Ukraine** face additional challenges in obtaining civil registration documents, as the documents issued in these areas are considered invalid by the Government of Ukraine and the procedures aimed at resolving this issue have not been implemented in practice. Prior to the full-scale Russian invasion in 2022, the Ministry of Justice estimated that only 45% of children reported to have been born in the areas of Donetsk and Luhansk and 12% in Crimea had obtained a birth certificate.³⁴ Many of these children have since fled these areas and face challenges accessing legal identity in Ukraine and other countries. Children born in the Temporarily Occupied Territories of Ukraine since 24 February 2022 also face similar issues.

6. DETERMINING A CHILD'S NATIONALITY OR STATELESSNESS

International norms for the prevention of statelessness establish that children who would otherwise be stateless shall acquire the nationality of the State where they were born. However, to establish if a child would 'otherwise be stateless' and meet their obligations under the Convention on the Rights of the Child and the 1961 Convention on the Reduction of Statelessness, States must be able to determine whether the child has acquired the nationality of another State. There is a lack of international norms and guidance on the determination of the child's nationality, resulting in diverse national practices and uncertainty as to good practice to follow, with more research, information and common guidance needed.

Drawing on the limited available international norms and guidance, experts recommend that the child's nationality should only be registered at birth if the following conditions are cumulatively met: a) the nationality in question is that of the European State where the child was born, b) the child's parent is also a national of the same State, and c) the State in question allows a parent to pass on their nationality to their child without limitation (*jus sanguinis*). This situation encompasses most births in Europe and in these cases, the child's nationality can clearly be established without any in-depth legal or factual analysis.

In all other cases, the examination of whether the child would otherwise be stateless should be carried out separately by a competent authority with the necessary expertise, through an established procedure for determining the child's nationality or whether they would otherwise be stateless.³⁵ The child's nationality or statelessness should be determined and resolved immediately after birth registration or as soon as possible.³⁶ The nationality of the child should be considered 'unknown', 'undetermined' or 'under investigation' for as short a period as possible and never longer than five years. Children with undetermined nationality should enjoy their human rights on equal terms with children who are nationals,³⁷ and if a State grants its nationality automatically at birth to children who would otherwise be stateless, then the child should be treated as a national of the State unless and until the possession of another nationality is proven.³⁸

All actions involved in determining whether a child would otherwise be stateless must be undertaken with the best interest of the child as a primary consideration.³⁹ The procedure should be free of charge and regulated by transparent guidance. The authority responsible for such a procedure should ensure that its decision-making staff are trained on nationality and statelessness law and have the legal and language knowledge necessary to conduct the assessment of foreign nationality laws.

UNHCR has stressed that, in the determination of whether a child would otherwise be stateless, decision-makers must adopt an appropriate standard of proof (for example, "to a reasonable degree") and all relevant evidence must be assessed, including statements from the parents or experts and any information on how national legislation is applied in practice.⁴⁰ In this regard, cooperation between States is essential to avoid statelessness.⁴¹ The competent authority should be able to directly contact consular representatives of other States to confirm the foreign nationality of a child, if necessary, except in cases where security or refugee law-related considerations would prohibit such contact. In these cases, special rules should be adopted for determining the nationality of the child and, where the child would otherwise be stateless, they should acquire the nationality of the State in which they were born.⁴² Where determination of nationality requires an application procedure, information on how to apply must be provided to individuals whose children would otherwise be stateless or of undetermined nationality.⁴³

GOOD PRACTICE ON DETERMINING A CHILD'S NATIONALITY

A handful of countries in the Statelessness Index have procedures, general rules, or guidance on determining a child's nationality in place, but these largely fail to meet the standards outlined above. Practice varies significantly across the Index countries in terms of when - or even, if - the nationality of a child born in a country to non-national parents is identified, recorded, and determined.

Spain provides an example of good practice. In **Spain**, the child's nationality is recorded at birth registration only if born in Spain to a Spanish mother and/or father, foreign parents where at least one of them was also born in Spain, and foundlings. In the case of minors born in Spain to stateless parents or those who are unable to confer nationality to their child, there is a clear procedure and guidance for requesting nationality as a rebuttable presumption, relying on the Law on Civil Registry.

In **Czechia**, the parents of a child who does not acquire Czech nationality at birth should apply for a visa on their behalf at which point the Czech authorities will determine the child's nationality. In case of doubt, parents must apply for a Certificate of Czech Citizenship. In **Germany**, officials will check whether a child of foreign parents has acquired German nationality by birth. However, there is a risk that children are left in limbo for more than five years as the relevant documents to obtain a birth certificate (rather than an extract) from the registrar that support the process to determine the identity and nationality can be submitted later, and there is no time limit for the procedure. In **Switzerland**, the child's nationality is recorded on the birth certificate and determined based on the parents' documents. The Federal Office for Civil Registration has issued guidance but there is no legal basis for nationality determination and practice may vary at cantonal level. The child's nationality can be recorded at a later stage if relevant information becomes available, but there are no safeguards to ensure that authorities check *ex officio* whether nationality can be established at a later stage.



DETERMINING THE NATIONALITY OF CHILDREN BORN IN NORWAY

In Norway, the nationality of the child and the parents is recorded on the birth notification form by the doctor or the midwife when the child is born and then submitted to the National Registry. The National Registry's Handbook on Population Registration provides instructions on registering nationality in different types of cases and must correct the record if subsequent information emerges about the child's nationality status. If a person claims to be stateless or there is doubt about a child's identity, the National Registry official must refer the case to the immigration authority. Norway's National Registry Handbook instructs officials to register children born to non-Nordic parents with different nationalities with the mother's nationality (unless otherwise highlighted in the birth notification).

In most other countries, in the absence of dedicated procedures, at best, general rules may apply to determine a child's nationality and later correct any errors in how this may have been recorded at birth registration. Officials responsible for recording nationality in the birth registry often lack guidance, training, and tools to facilitate accurate identification of where a child may be stateless and subsequent determination of their nationality (or statelessness). It is also often unclear what happens in the case of children born to refugees where the child should acquire a nationality from their parents through *jus sanguinis*, but the parents are unable to contact the authorities of their country of nationality because they are seeking or have been granted international protection. Some countries have provisions in place to ensure that children born to refugees can acquire a nationality. For example, in **Belgium**, parents who are unable to apply to the diplomatic or consular authorities of their country of origin because they are refugees are exempt from doing so as a prerequisite for their child born in Belgium to acquire Belgian nationality.

ISSUES ARISING FROM THE LACK OF PROCEDURES TO DETERMINE THE NATIONALITY OR STATELESSNESS OF A CHILD BORN TO NON-NATIONALS

Most countries in the Statelessness Index lack formal procedures for determining the nationality or statelessness of a child born on their territory to non-nationals. In some countries the nationality of the child (and/or parents) is recorded at birth registration, and in others it is not. In countries where the child's nationality is routinely recorded at birth registration, officials often have discretion and little guidance as to what to record in the nationality field where parents are non-nationals. This can lead to varying practice and a risk that statelessness remains unidentified. In some countries, the nationality field is simply left blank where there is a doubt about nationality (for example in **Croatia, Cyprus, North Macedonia, and Slovenia**) and no further action taken; in others, the child is recorded as having 'unknown' nationality (for example in **Belgium, Hungary, the Netherlands, and Sweden**); and in others, nationality may be assumed without verification

based on a parent's (usually the mother's) nationality (for example in **Bulgaria, Italy, Montenegro, Serbia, and Türkiye**). In some countries, the children of married and unmarried parents are treated differently, and fathers may need to take additional steps to prove paternity (for example, in **Bulgaria, Germany, Malta and Slovenia**). In **Poland**, the **UK** and **Ukraine**, nationality is not determined or recorded upon birth registration and may only be determined at the point of requesting a passport, meaning that any nationality problems may only emerge when a person is at the point of starting work, higher education or seeking to travel.

Children remaining registered with 'unknown nationality' indefinitely

The practice of children being recorded as having 'unknown nationality' at birth registration without any safeguards or clear procedures to ensure this is resolved as soon as possible can lead to violations of their right to acquire a nationality and a risk of statelessness. In **Hungary**, if no Hungarian nationality or statelessness can be proven at birth registration, the child is recorded as having 'unknown nationality' with no mandatory procedure in place to later determine the child's nationality. While this situation is usually fast resolved after the child's registration with the competent consular authority and the acquisition of a proof of a foreign nationality that is later entered on the child's official documents, this practice is reported to leave the children of refugees, who cannot contact the consular authorities of their country of nationality, registered as of 'unknown nationality' for several years or even decades. In **the Netherlands**, there are no safeguards in place to ensure that a child does not remain registered with 'undetermined nationality' for long periods of time. In 2020, the Human Rights Committee found that the Netherlands had violated a child's rights by leaving him registered with 'nationality unknown', and requested it take immediate steps to remedy the case and avoid similar situations in the future.⁴⁴ In **Belgium**, nationality is recorded during registration in the National Registry, which is carried out by the municipality of the parents' residence, but this is only possible if at least one parent has legal residence. If nationality cannot be determined, then the child will have undetermined nationality. If the child cannot be registered on the National Register, they will be undocumented and will have limited access to rights such as healthcare and schooling. It should be noted that registration in the National Register is not equivalent to legal residency. This means that some people may be registered in the National Register without enjoying legal residency and the rights that go with it. In **Latvia**, the child's nationality is recorded upon registration by the Registry Office. However, the procedure for determining a child's nationality after birth is unclear and there is a risk that a child whose nationality status at birth is unclear may remain with undetermined nationality for a prolonged period. It is also unclear how the child's nationality is determined in **Moldova** if the parents do not have residence status or the child's entitlement to nationality cannot be proven with documentation.

Children being registered with an assumed nationality

In several countries, in the absence of clear guidance, civil registry officials may attribute the child a nationality based on that of their parents (usually the mother). In **Italy**, the child's nationality is recorded at the time of registration in the Municipal Population Registry and is automatically recorded based on the parents' nationality. If this is unclear, civil registry officials tend to record a presumed nationality, such as that of the parents' country of origin.⁴⁵ In **Croatia**, if the child does not fulfil the conditions under the Citizenship Act, the nationality field is left blank, but if the nationality of the parents is known, then the child will be recorded as having the same nationality as the parents, with no legal framework to determine nationality at a later stage. In **Bulgaria**, there is no obligation for authorities to examine whether the child has actually acquired the nationality of the country that is recorded in the birth certificate. In most cases, the authorities automatically register the child with the same nationality as the mother. Some municipal authorities have adopted a practice of asking the parents to declare the nationality of the child and requiring a notarised declaration signed by both parents, but this is not based on law and practice is inconsistent.

In some cases, the practice of attributing the child's nationality based on that of their parents appears to have evolved through a lack of guidance, in others, officials are explicitly instructed to do this in law or guidance. In **Bulgaria, Italy and Norway**, there are procedures in place to later correct the child's record, but such practices create a worrying risk that childhood statelessness may go unidentified where the laws of the mother's country of nationality prevent her from conferring her nationality to her child born abroad due to gender discrimination.⁴⁶

Issues with recognition of paternity

Issues with recognition of paternity can result in a child's nationality remaining undetermined if the father's identity and nationality are unclear or unconfirmed. This is particularly important for children whose mothers cannot confer their nationality to them due to gender discrimination in the laws of their country of nationality. Some countries in the Index have reported issues with recognition of paternity, for example **Germany, Malta, and Slovenia**. In **Slovenia**, there are reports of administrative practices preventing the registration of paternity where foreign parents cannot produce a marriage certificate, with no safeguard in place to ensure that a child does not remain with undetermined nationality for a period over five years. There are also reports of issues in **Germany** with recognition of paternity for non-married parents, including fees, suspension of paternal recognition due to credibility issues, and difficulties securing appointments with Civil Registries and Child Welfare Offices.



DISCRIMINATORY PRACTICES IN RECOGNITION OF PATERNITY IN MALTA

In Malta, there is no clear legal framework for determining a child's nationality in cases where they may 'otherwise be stateless'. Practice suggests that there is no automatic assessment procedure. When the parents are married and both are Maltese, the child is presumed to be Maltese. However, there used to be discrimination in recognition of paternity in the case of unmarried parents where only the mother was Maltese, in which case the child was presumed to be Maltese, but where only the father was Maltese, a procedure had to be triggered requiring evidence of paternity or else Maltese nationality was not automatically recognised for the child. In the 2011 *Genovese* case, the European Court of Human Rights found Malta's decision to deny nationality to a person born to an unmarried Maltese father and British mother to be in violation of Article 14 in conjunction with Article 8 of the European Convention on Human Rights.⁴⁷ The Maltese Citizenship Act was later amended to remove this gender discrimination and now provides for the assumption of Maltese nationality in case of unmarried parents even when only the father is Maltese, the difference still lying in the evidence required to prove the parent-child relation. Whilst evidence of maternity may be easier to provide, the father's details on the birth certificate, which requires confirmation of paternity from the father, will constitute the required evidence of paternity to confirm the child's entitlement to Maltese nationality.

7. MANDATORY REPORTING OF UNDOCUMENTED MIGRANTS

To ensure that all children have their births registered regardless of their or their parents' residence or documentation status (or other aspects of their identity), international norms and good practice urge States to prohibit data-sharing between health or registration officials and immigration enforcement authorities.⁴⁸

GOOD PRACTICE

Most countries featured in the Statelessness Index do not have mandatory reporting requirements for public officials to report people with irregular residence status to immigration authorities, but few explicitly prohibit this in law or guidance. An explicit firewall between immigration authorities and public services is the safest way to ensure that people can access their rights to healthcare, civil registration and other public services, free from the fear of being subject to immigration enforcement actions in practice.⁴⁹



FIREWALL BETWEEN REGISTRY OFFICIALS AND IMMIGRATION AUTHORITIES IN SWITZERLAND

In Switzerland, an Instruction to the Civil Registry Ordinance on the registration of non-nationals explicitly prohibits public officials from reporting people with irregular residence status to the migration authorities when registering births. This clear firewall helps provide assurance to undocumented migrants that they may report and register the births of their children without fear of being reported to immigration authorities.

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REPORTING OF PEOPLE WITH IRREGULAR RESIDENCE STATUS TO IMMIGRATION AUTHORITIES

Three countries in the Statelessness Index have mandatory measures in place that require public officials to report certain immigration matters to the enforcement authorities (**Belgium, Germany, and the UK**). The fear that this creates among migrants with irregular residence status can be a significant barrier to parents approaching public services to register births or to accessing public health services to give birth, which can complicate the birth registration process. In **Belgium**, public servants including civil registrars are required by law to report undocumented migrants to the immigration authorities. Similarly, in **Germany**, registry officials are required to report people subject to deportation, who breach geographic restrictions or who have irregular residence status to immigration authorities.



BARRIERS TO HEALTHCARE FOR UNDOCUMENTED MIGRANTS IN THE UK

Public health providers in the UK are required to report certain immigration matters to the immigration authorities and undocumented migrants may be subject to charging for healthcare, which may combine to prevent them from accessing health services and registering the birth of their child, though no recent cases have been reported.

In **Bulgaria** and **North Macedonia**, although there are no mandatory reporting requirements, health authorities may decide to report undocumented migrants to the authorities and there are instances of this happening in practice. In **Croatia**, despite there being no mandatory reporting requirements, in practice, all state institutions and bodies report people who are undocumented to the police. In **Montenegro**, information on birth registration is exchanged between health authorities and the Ministry of Interior. In **Türkiye**, undocumented migrant parents are at risk of detention and deportation in all interactions with the authorities, given that foreigners must first register themselves to access rights and services, which may deter parents with unregulated residence status from registering the births of their children.

In most other countries, while there are no mandatory requirements for health or civil registry authorities to report undocumented migrants, the lack of a clear firewall prohibiting the sharing of information by these entities with immigration authorities could deter undocumented parents from coming forward to register their children.



POTENTIAL FOR INCREASED INFORMATION SHARING BETWEEN AUTHORITIES IN SWEDEN

Information about a child born in Sweden who does not have Swedish nationality is usually sent to the Migration Agency, then the parents must apply for a residence permit and present a valid passport or travel document. There are legal exceptions to the protection of personal data, which include obligations to disclose information about a foreigner's personal circumstances to specific authorities for the purposes of deciding on a residence permit or enforcing removal. The fear of being deported could potentially hinder undocumented families from registering a baby. In 2023, the government instructed an inquiry to suggest recommendations to increase information-sharing between public authorities to facilitate deportation.

8. ACCESS TO LATE BIRTH REGISTRATION

Free and prompt birth registration should be assured in law and practice, even if the period within which the birth should have been declared has expired, to ensure that no child is left unregistered. Any barriers that might prevent access to late birth registration, such as financial penalties, should be avoided.⁵¹

GOOD PRACTICE

Just over half of the countries in the Statelessness Index demonstrate some good practice in facilitating access to free and prompt birth registration after the deadline for registration has passed. However, some good practice can be identified, including no fines or penalties, no action being taken to prevent late registration, or explicit safeguards like *ex officio* registration where parents fail to register a child, as is the case in **Albania** where unregistered births are flagged to the child protection unit for mandatory *ex officio* registration, and in **Belgium**, where the civil registrar will draw up a birth certificate based on information provided in the notification of birth if parents miss the deadline. There are also initiatives to implement electronic or automatic registration by health institutions. In **Norway**, the doctor or midwife present at the birth is required to give notification of the birth to the National Registry Authority when the child is born. If the child is born without assistance from a midwife or doctor, the mother must notify the National Registry Authority within one month, but there is nothing in law or practice that suggests late birth registration would not be possible.



FACILITATING BIRTH REGISTRATION AFTER THE DEADLINE HAS PASSED IN SPAIN

Although deadlines for registration exist in Spain (72 hours, 10 days, and 30 days), this procedure allows individuals whose births were not registered within the legally established timeframes to still proceed with registration. This process applies to both adults and minors and is regulated by Article 311 of the Civil Registry Law regulations. In no case would a birth remain unregistered; however, the process requires submitting an out-of-time registration application before the competent authority. This provision ensures that individuals are not denied their right to a legal identity, regardless of their age or the circumstances of the delay.

BARRIERS TO LATE BIRTH REGISTRATION

Late registration fees, complex court procedures, and other additional requirements for registering a birth after the deadline can prevent or put obstacles in place of universal birth registration in some countries featured in the Statelessness Index.

Fees or fines for late birth registration

In several countries, the law provides for fees or fines to be levied to register a birth after the deadline has passed. The amounts vary significantly, from a €10-25 fee charged for issuance of a birth certificate after two years in **Austria**, to a potential €3,750 fine and six-month prison sentence in **France** if the birth is not declared by someone who attended the birth. In **Croatia**, the administrative fee for a late birth registration document is approximately €3, and court fees are approximately €150 per case where court proceedings are necessary. In **Greece**, the penalty is €30 for late registration between 11-90 days, after the 90th day, the penalty is €60. It is not clear whether such penalties are simply intended as a deterrent, or whether they are implemented in practice. **Portugal**, for example, provides in law for fines to be administered where the birth is not registered within the statutory deadline, but these are not implemented in practice.⁵²



FEES FOR REGISTERING A BIRTH AFTER THE STATUTORY DEADLINE IN CYPRUS

In Cyprus, the deadline for the completion of birth registration is 15 days after the child's birth. Late registration is possible by law but subject to late registration fees. If a child is registered within 15 days of birth, €5 is charged for the issuance of the birth certificate. Between 15 days and three months after birth, a late registration fee of €30 is charged, which doubles to €60 after three months. Such fees for birth registration can act as a deterrent for people in vulnerable circumstances with limited or low income.

Additional evidence requirements for late birth registration

Certain countries have additional requirements for late birth registration. In **Germany** and **Latvia**, access to late birth registration is dependent on the documentation or residence status of the parents. In **Germany**, stateless people must have habitual residence and present a travel document.⁵³ A refugee passport is accepted, but if this has been issued based on the holder's statement, its evidentiary value will be limited, and the registrar may only issue an extract from the birth registry rather than a birth certificate. In **Latvia**, parents must have identification documents to be able to register their child's birth late, and in **Croatia**, supporting documents required include all personal and other related documents of both parents. In **Austria**, late birth registration is possible for nationals abroad, refugees, and persons who have no ties with their country of origin anymore for similar reasons as refugees (e.g. beneficiaries of subsidiary protection), stateless people, or those with undetermined nationality who have habitual residence in Austria (habitual residence can often be proven after a six month stay). Whilst there are no reported barriers to meeting the habitual residence requirement in practice, the lack of identification of statelessness by civil registry officials continues to create barriers to late birth registration in Austria. This is due to there being no legal definition of 'statelessness' or 'undetermined nationality' in domestic law and the Ministry of the Interior's non-binding guidance for civil registry officials applies a narrow definition of statelessness. This can often lead to mis-categorisation and varying practice.

The statutory deadline for birth registration in the **Netherlands** is three days after the birth, and in the Municipality of Amsterdam, a doctor's statement is also necessary as supporting evidence after six weeks. **Ukraine** requires various certificates and medical documents from the parents as evidence documenting their child's birth to facilitate late birth registration. If the registration takes place more than 16 years after the child's birth, a passport is required but it is almost impossible to acquire a passport without a birth certificate.

Court or administrative procedure required for late birth registration

In some countries, civil registries do not have authority to register a birth beyond the statutory deadline. Late birth registration may require approval by a higher administrative body, be subject to a different administrative procedure or to court proceedings. These procedures tend to be lengthy and require additional evidence, creating further obstacles for birth registration and potentially deterring parents from initiating the procedure to register a child.

In **Serbia**, after 30 days, a procedure for subsequent registration of the fact of birth must be initiated, which is a complex procedure that can take several months. The regulations governing the procedure are not sufficiently precise and practice varies between municipalities. The mother needs to be present and be registered. In practice, the deadline is always exceeded and evidence such as vaccination cards must be submitted. People who cannot prove the fact of their birth in an administrative procedure can initiate the non-contentious court procedure for determination of date and place of birth. However, there are often delays, it is subject to fees, and different evidentiary rules apply. The Supreme Court has held that non-contentious procedures can only be conducted if a procedure for subsequent registration of the fact of birth has previously been previously initiated and was unsuccessful. It also ruled that people registered in the Kosovar birth registry books cannot request the court to conduct a procedure for determination of the date and place of birth.

In the **Netherlands**, late birth registrations are usually seen by a judge before the birth is confirmed which causes delays and costs extra money. In **Romania**, after 15 days, the approval of the mayor is required to register a birth. After a year, registration is only possible through a court procedure, which involves verification of the child's identity, age, and sex through a medico-legal assessment. The age-assessment process is unpleasant and uncomfortable, and legal aid is not available for people who are unregistered, which may deter people from accessing the procedure. In **Georgia**, the law does not offer clear and unambiguous guidance on the procedure for late birth registration. While the civil registration process permits the late registration of births through a determination of facts, the precise steps and responsible authorities remain ambiguous (including whether it is an administrative or a judicial procedure).

9. CONCLUSIONS AND KEY ACTIONS

This briefing demonstrates the links between birth registration and the child's right to a nationality, as well as providing an overview of the current state of play on birth registration law, policy, and practice in Europe. Drawing on data from the Statelessness Index, it has highlighted some of the good practices in ensuring every child has access to immediate, free birth registration and is provided with a birth certificate, and their nationality or statelessness determined, whilst also presenting some of the persisting barriers that prevent universal birth registration from being realised in some countries and continue to expose children to the risk of statelessness.

KEY ACTION AREAS

The following four key action areas highlight where urgent attention is needed from policy and decision-makers to address remaining barriers to birth registration, prevent statelessness and ensure every child born in Europe acquires a nationality. Action is needed from regional institutions, including the European Union and Council of Europe, to promote and facilitate universal access to birth registration in Europe and beyond; by States, to ensure national law and policy meets international and regional standards; and by local authorities with competence in these key action areas, to ensure appropriate procedures, guidance, and capacity are in place at local level.

1. ACCESS TO IMMEDIATE, FREE BIRTH REGISTRATION AND CERTIFICATION FOR ALL CHILDREN, REGARDLESS OF THEIR PARENTS' DOCUMENTATION OR RESIDENCE STATUS, OR OTHER ASPECTS OF THEIR IDENTITY

- Allow for flexibility (in law and practice) in the documentation required for birth registration
- Build the capacity of civil registry officials to identify and eliminate discrimination and antigypsyism and take necessary steps to facilitate registration for those who cannot meet requirements
- Issue birth certificates to all children regardless of their or their parents' documentation or residence status, or any other aspects of the parents' identity (including sexual and/or gender identity)
- Remove barriers to reproductive healthcare preventing women from giving birth in public health facilities and registering the births of their children
- Facilitate late registration after the deadline has passed by simplifying procedures, removing punitive fines or fees, and ensuring flexibility where documentation or other requirements cannot be met
- Provide accurate, targeted, and accessible public information about birth registration and nationality determination procedures
- Facilitate the birth registration of all children present on the territory, including migrant and refugee children born in transit who would otherwise remain unregistered

2. REMOVE MANDATORY REPORTING REQUIREMENTS THAT DETER PEOPLE FROM ACCESSING HEALTHCARE AND/OR CIVIL REGISTRATION

- Remove any requirements for public officials to report people with irregular residence status to immigration authorities and monitor practice to ensure this does not happen
- Introduce legal safeguards ('firewalls') to prohibit public officials from reporting people to immigration authorities when accessing healthcare or civil registration services
- Issue targeted, accessible, public information to inform people about their rights to access healthcare and civil registration services and how their personal data is shared or used

3. INTRODUCE AND IMPROVE PROCEDURES TO DETERMINE THE CHILD'S NATIONALITY OR STATELESSNESS

- Ensure full legal safeguards are in place so that any child born on the territory who would otherwise be stateless acquires nationality
- Build the capacity of civil registry officials through training and guidance to identify indications of statelessness during birth registration
- Avoid entering data about the nationality of children born to foreign parents based merely on the impression or presumption of the birth registration officer, instead ensure mechanisms are in place for civil registry officials to refer identified cases for nationality determination to a clear procedure under a designated competent authority with the necessary expertise and safeguards
- Ensure that a child's nationality is determined as soon as possible after birth (and never more than five years) and in line with their best interests and other relevant international obligations
- Ensure that children are treated as nationals for the purposes of accessing their fundamental rights while their nationality is determined
- Improve research, standards, guidance, and information about law and policy frameworks for the determination of the child's nationality

4. IMPROVE LOCAL, NATIONAL, AND REGIONAL DATA ON BIRTH REGISTRATION

- Improve cooperation between local, national, regional and international institutions to collect and publish accurate birth registration data
- Increase efforts to gather and publish data on birth registration rates among populations disproportionately facing barriers to registration, including undocumented migrants, refugees, members of minority groups, people in residential care, immigration detention or prisons, asylum reception centres, informal settlements, and homeless people

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- ²⁰ For more examples of good practice on birth registration, see UNHCR (2017) Good Practices Paper - Action 7: Ensuring birth registration for the prevention of statelessness: <https://www.refworld.org/docid/5a0ac8f94.html>
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- ²⁵ ENS, ISI, ERRC and Tirana Legal Aid Society. Roma Belong: Statelessness, Discrimination and Marginalisation of Roma in the Western Balkans and Ukraine. February 2018, p. 34: <https://www.statelessness.eu/sites/www.statelessness.eu/files/attachments/resources/roma-belong.pdf>
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- ²⁷ Joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return: <https://www.refworld.org/docid/5a12942a2b.html>
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- ³⁸ Ibid
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- ⁴¹ Council of Europe (2009) Recommendation to Member States on the Nationality of Children, Principle 6.
- ⁴² Ibid
- ⁴³ Ibid
- ⁴⁴ UN Human Rights Committee, Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2918/2016, 20 January 2021, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/130/D/2918/2016&Lang=en
- ⁴⁵ Information about forthcoming ANUCSA guidance provided by UNHCR Italy in May 2020.
- ⁴⁶ For further information on gender discriminatory nationality laws and the 25 countries worldwide that prevent women from passing their nationality to their children on an equal basis with men: <https://equalnationalityrights.org/>
- ⁴⁷ Genovese v. Malta, application no. 53124/09, European Court of Human Rights: <http://hudoc.echr.coe.int/eng?i=001-106785>
- ⁴⁸ Joint General Comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and their Families & No. 23 (2017) of the Committee on the Rights of the Child: <https://www.refworld.org/docid/5a12942a2b.html>
- ⁴⁹ Austria, France, Greece, Hungary, Ireland, Italy, Latvia, Malta, Moldova, Netherlands, Norway, and Slovenia do not have mandatory reporting requirements for public authorities that could prevent migrants from approaching birth registration authorities and there is no evidence that this happens in practice.
- ⁵⁰ Instruction to the Civil Registry Ordinance on the registration of nonnationals with regard to legal stay in the country (January 2011): <https://www.bj.admin.ch/content/da%20m/data/bj/gesellschaft/zivilstand/weis%20ungen/weisungen-07/10-11-01-02-%20d.pdf>
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- ⁵² See Portugal's Statelessness Index country survey for more information: https://index.statelessness.eu/sites/default/files/Statelessness_Index_Survey_Portugal.pdf
- ⁵³ Art 36 Personenstandsgesetz vom 19. Februar 2007 (BGBl 2007 I, 122), zuletzt geändert durch Artikel 17 des Gesetzes vom 20. November 2019 (BGBl 2019 I, 1626) [Civil Status Act] (in German): <https://www.gesetze-im-internet.de/pstg/PStG.pdf>

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The Statelessness Index is a 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.

<https://index.statelessness.eu>
info@statelessness.eu

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