



# Mapping **STATELESSNESS** in Iceland

UNHCR Regional Representation for Northern Europe  
Stockholm, December 2014



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# List of abbreviations

<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination Against Women
<b>CERD</b>	Committee on the Elimination of All Forms of Racial Discrimination
<b>CRC</b>	Convention on the Rights of the Child
<b>DI</b>	Directorate of Immigration
<b>ECHR</b>	European Convention on Human Rights
<b>EEA</b>	European Economic Area
<b>EFTA</b>	European Free Trade Association
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICERD</b>	International Convention on the Elimination of All Forms of Racial Discrimination
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>NPR</b>	National Population Registry
<b>RI</b>	Registers Iceland
<b>UDHR</b>	Universal Declaration of Human Rights
<b>UNHCR RRNE</b>	UNHCR Regional Representation for Northern Europe
<b>UPR</b>	Universal Periodic Review



# 1. Introduction

In November 2014, UNHCR launched a Global Campaign to End Statelessness in 10 Years. The strategy for the Campaign is set out in a Global Action Plan which contains 10 actions that need to be taken to end statelessness. States are encouraged to adopt National Action Plans that include those actions necessary to end statelessness in their own national contexts. In preparation for the Campaign, the UNHCR Regional Representation for Northern Europe (UNHCR RRNE) has, over the past two years, conducted statelessness mappings in each of the eight countries in the Northern Europe region. The mapping in Iceland has been conducted by an independent consultant, Ms. Hrefna Dögg Gunnarsdóttir, working under the joint supervision of UNHCR RRNE and the Institute of Human Rights at the University of Iceland, and made possible thanks to funds kindly provided by the Ministry of the Interior.

The information gathered through these mappings, and consolidated in reports like the current one, is aimed at providing a better understanding of the scope of statelessness in the countries concerned. UNHCR hopes that the findings and recommendations contained in the respective reports will contribute to the ongoing dialogue between UNHCR, the Governments concerned, civil society and other relevant actors on what steps may need to be taken at national level in order to bring the respective countries' national legal frameworks, institutional capacity and practice fully in line with the international and European standards in the area of prevention and reduction of statelessness, and the protection of stateless persons. UNHCR moreover hopes that the reports can serve as a starting point for the development of National Action Plans to end statelessness in each of the countries.

The mapping of statelessness in Iceland provides an overview and analysis of the numbers and basic demographic profiles of the persons who are stateless in Iceland, and examines existing legislation and procedures governing the recognition of their status and their enjoyment of rights. As the mapping was initiated in 2012, the statistics used for the analysis are generally derived from 2011 or earlier. The mapping highlights positive aspects of addressing statelessness in Iceland, as well as some current gaps and challenges, and suggests possible ways of improving the position of stateless persons in Iceland. UNHCR hopes that this mapping can contribute to a better understanding of and awareness around the issue of statelessness at the national level, and help encourage the relevant national actors to further investigate how to address statelessness.

The demographic section of this report consists mainly of quantitative analysis with some qualitative elements. The quantitative analysis includes a statistical overview and analysis as well as a review of the registration methods and practices. The identification methodology, i.e. how it is determined that a person is stateless and how stateless persons are identified in Iceland is also looked into. The qualitative aspect is based on a review of asylum cases from 2008 to 2011 that involved stateless persons and persons considered as of unknown nationality by the Icelandic authorities.

The main purpose of the legal analysis section of the report is to investigate the extent to which Iceland today complies with the standards set out in the 1954 Convention relating to the Status of Stateless Persons<sup>1</sup> (1954 Convention) and the 1961 Convention on the Reduction of Statelessness<sup>2</sup> (1961 Convention) and other

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<sup>1</sup> UN General Assembly, *Convention Relating to the Status of Stateless Persons*, 28 September 1954, United Nations, Treaty Series, vol. 360, p. 117, available at: <http://www.refworld.org/docid/3ae6b3840.html>

<sup>2</sup> UN General Assembly, *Convention on the Reduction of Statelessness*, 30 August 1961, United Nations, Treaty Series, vol. 989, p. 175, available at: <http://www.refworld.org/docid/3ae6b39620.html>

relevant international and regional standards on statelessness. In analyzing current Icelandic approaches to statelessness in law and policy, particular attention has been paid to whether and to which extent Icelandic law and policy provide for the following ways of addressing statelessness: prevention of statelessness, identification and protection of stateless persons and reduction of statelessness.

## 1.2 Executive summary

The 1954 Convention and the 1961 Convention are, respectively, the global legal instruments for the protection of stateless people around the world, and for the prevention and reduction of statelessness.

Iceland has neither acceded to the 1954 Convention nor to the 1961 Convention, unlike the other Nordic countries. However, Iceland has already taken on obligations in relation to statelessness in other more general human rights instruments as well as the 1997 European Convention on Nationality.<sup>3</sup> Iceland has also on several occasions expressed its intention to accede to the two Conventions, including in the context of the Human Rights Council's Universal Periodic Review of Iceland in 2011.<sup>4</sup>

Today, an individual may be registered as stateless in one or several of the registries in use, namely the Police Register (LÖGE) used by the National Police and the International Department of the National Commissioner of the Icelandic Police; the Aliens Register (*Erlendur*) used by the Directorate of Immigration; the National Population Register (*Þjóðskrá*) used by Register Iceland; and in the Register of Outsiders (*Utangarðsskrá*), also used by Register Iceland. Due to the lack of a definition of a "stateless person" in Icelandic law and legal provisions and guidelines on the criteria and procedure to be used for determining if an individual is indeed stateless, the aforementioned authorities responsible for registering persons on Icelandic territory apply different criteria. Consequently, only limited conclusions on the actual number and origin of stateless persons in Iceland can be drawn from the publicly available statistics, as persons could be registered as stateless when they in fact are nationals of another state, while truly stateless persons may not have been identified and registered as such. Nonetheless, from the review of available statistics and consultations with stakeholders, it appears that most stateless persons have come to Iceland from abroad. They include stateless asylum-seekers, resettled refugees, 'non-returnable' rejected asylum-seekers and stateless women from Latvia of Russian descent.

While the rights and obligations of individuals in Iceland are in general based on the type of residence permit an individual holds and not on status, it is not fully clear which rights a person recognized as a stateless person would be entitled to under the current legislation.

Provisions aimed at preventing persons from becoming stateless are contained in the Icelandic Nationality Act No. 100/1952. In general, these ensure that children born to at least one Icelandic parent acquires Icelandic citizenship at birth, though requirements for a child born abroad to an Icelandic father and a foreign mother are not fully in line with international standards. In regard to children born in Iceland who would otherwise be stateless, either because the child's parents are stateless or because they cannot confer their nationality to the child, the Nationality Act contains restrictions on such a child's ability to automatically acquire Icelandic citizenship at birth, or as soon as possible through application. For example, the Nationality Act contains age limits for filing an application for Icelandic citizenship and a requirement that the stateless child must have held legal domicile for three years before applying for citizenship, which are not in line with international standards; also, the Nationality Act lacks provisions on the acquisition of citizenship to children born onboard an Icelandic ship or aircraft as well as clarity on the criteria and methodology to be used in

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<sup>3</sup> Council of Europe, European Convention on Nationality, 6 November 1997, ETS 166, available at: <http://www.refworld.org/docid/3ae6b36618.html>.

<sup>4</sup> UN Human Rights Council Universal Periodic Review of Iceland, documents available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/ISSession12.aspx>

order to prevent foundlings from becoming stateless. However, other preventive measures in relation to change in civil status, renunciation, deprivation or loss of nationality are in place.

Measures aimed at reducing statelessness, through naturalization, are also found in the Nationality Act. While granting of citizenship by statutory law is the main rule, naturalization through an administrative decision is in practice the most common. A number of potential barriers can be found in the requirements for naturalization by administrative decision, in regard to high application fees, minimum requirements for legal residence, documentary evidence in relation to identity and waiting periods in case of criminal sentence or fine. The possibility to obtain citizenship through statutory law may thus offer an alternative avenue for stateless persons; however, that avenue also presents certain challenges to stateless applicants.

## 1.3 Statelessness across the globe

Statelessness is a global phenomenon. UNHCR estimates that there are at least 10 million stateless persons worldwide. The following sections look at the definition of a 'stateless person', at the causes of statelessness and at what the consequences of being stateless may be.

### 1.3.1 Defining 'a stateless person'

The definition of a 'stateless person' is provided in Article 1(1) of the 1954 Convention. The present report focuses on those persons falling under this definition.<sup>5</sup> The Convention defines a stateless person as a 'person who is not considered as a national by any State under the operation of its law'. According to the International Law Commission, this definition constitutes customary international law.<sup>6</sup>

'A national' refers to a formal bond between a person and the state, which does not have to be an effective or genuine link.<sup>7</sup> To determine whether an individual is considered as a national or not, it is not only necessary to look at the nationality laws of the states to which a person might have links, but also to the practices of the states in applying or implementing those laws.<sup>8</sup> Moreover, a person's nationality must be assessed at the time of determination of eligibility under the 1954 Convention, which is neither a historic nor a predictive exercise.<sup>9</sup> This means that for the determination whether a person is stateless it is not relevant that that person is in the process of naturalizing or has the option to acquire the nationality of a certain state. If at the time of the determination, that person is in the process of losing, being deprived of or renouncing a nationality, the person is still a national. Furthermore, when statelessness results from voluntary renunciation of nationality, the person may not be excluded from the protection of the 1954 Convention.<sup>10</sup>

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<sup>5</sup> UNHCR, 'Expert Meeting: The Concept of Stateless Persons under International Law Summary Conclusions' (Prato Conclusions), 27 May 2010 Prato, Italy, at 8 paras 11 and 12. The Handbook explains that 'persons who fall within the scope of Article 1(1) of the 1954 Convention are sometimes referred to as "*de jure*" stateless persons', UNHCR, 'Handbook on Protection of Stateless Persons', para 7. Individuals who have a nationality but are outside the country of their nationality and are denied diplomatic and consular protection accorded to other nationals by their state of nationality have been referred to as '*de facto*' stateless, please see the Prato Conclusions. The term '*de jure*' is not found in any international treaty and is not used in this report, yet it must be emphasized that the present report does not include '*de facto*' stateless persons.

<sup>6</sup> ILC, 'Commentary on the Draft Articles on Diplomatic Protection' (2006) p. 49, para 3 of the commentary. (available at: [http://untreaty.un.org/ilc/texts/instruments/english/commentaries/9\\_8\\_2006.pdf](http://untreaty.un.org/ilc/texts/instruments/english/commentaries/9_8_2006.pdf))

<sup>7</sup> UN High Commissioner for Refugees (UNHCR), *Handbook on Protection of Stateless Persons*, 30 June 2014, para. 54, available at: <http://www.refworld.org/docid/53b676aa4.html>.

<sup>8</sup> *Ibid.*, paras. 23-24.

<sup>9</sup> *Ibid.*, para. 50.

<sup>10</sup> *Ibid.*, para. 51.

## 1.3.2 Causes of statelessness

Statelessness can be caused by numerous factors. Some of these factors are of a legal technical nature, where statelessness is caused by gaps in nationality laws or conflicts between nationality laws. A State determines through its national law which persons are or can become its citizens. Where a State's nationality law is based on acquiring nationality by descent (*jus sanguinis*), a child born in that State from parents with a nationality of a country that is acquired through birth on the territory of that State (*jus soli*) would encounter problems in obtaining any nationality if the national legislation of these two countries does not contain any safeguards to protect the child from becoming stateless. Moreover, statelessness can occur later in life. Some legal systems provide for mechanisms of automatic loss of nationality, for example after a long absence from the country. States may also require that a person revokes his or her former nationality before acquiring the nationality of that State. Withdrawal of nationality may also lead to statelessness if there is no adequate safeguard in place to prevent statelessness.

Another major cause of statelessness relates to the dissolution and separation of States, transfer of territory between States, and the creation of new states. In the period of decolonization, groups of persons may have been left out of the initial body of citizens under the nationality legislation of the newly independent state. In Europe, many people were left stateless after the dissolution of the Soviet Union and the Socialist Federal Republic of Yugoslavia.

In addition to or underlying the aforementioned causes of statelessness, discrimination in nationality law or in practice against certain parts of the population and arbitrary deprivation of nationality contribute significantly to the creation or perpetuation of statelessness. Based on for example ethnicity or religious beliefs, a certain group within a State or populations living across multiple States are sometimes denied or deprived of nationality. Examples of such populations are the Rohingya in Myanmar the Bidoon in the Arab Gulf States, and parts of the Roma population in Europe.

Discrimination on the ground of gender can also be a cause of statelessness. In some nationality laws, women are not able to pass on their nationality to their children. Moreover, women may lose their nationality upon marriage or upon dissolution of the marriage. The impossibility for women to transmit their nationality to their children is especially problematic in cases where children are born out of wedlock or where the father is unknown, has passed away, has left, is stateless or is a foreigner who is unable to transmit his own nationality or who is unwilling to take the necessary administrative steps to do so. Currently, 27 States still discriminate against women in their laws with regard to transmission of nationality to their children, the majority of which can be found in Africa, Asia and the Middle East.<sup>11</sup> At the same time, laws which discriminate against children born out of wedlock, making it more difficult for them to acquire their father's nationality, can also contribute to creating statelessness.

## 1.3.3 Consequences of statelessness

Most stateless persons encounter many difficulties in every aspect of daily life. Stateless parents may experience difficulties in obtaining a birth certificate for their children and stateless persons generally have problems obtaining personal identification documents. Without such documents, they have difficulties enjoying their basic rights. They may face obstacles accessing education or health care services, entering the labour market, traveling abroad, or owning land or other property. Stateless persons may not be able to open a bank account, to inherit or to get legally married. Stateless persons may be detained for prolonged or repeated periods because they have no identity documents or right to stay in the country they are in. Consequently, stateless persons often face destitution and many stateless populations belong to the most marginalized and vulnerable groups worldwide.

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<sup>11</sup> UN High Commissioner for Refugees (UNHCR), *Background Note on Gender Equality, Nationality Laws and Statelessness 2014*, 8 March 2014, available at: <http://www.refworld.org/docid/532075964.html>.

## 1.4 The international and regional legal framework

The international legal framework relating to statelessness consists of international instruments and regional instruments. At the international level, two conventions deal specifically with statelessness: the aforementioned 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

The 1954 Convention aims to guarantee to persons who are stateless the enjoyment of a minimum set of rights while the 1961 Convention provides a set of safeguards for states to include in their nationality laws to ensure that statelessness is avoided. The 1954 Convention entered into force in 1960 and has 83 State Parties.<sup>12</sup> The 1961 Convention entered into force in 1975 and has 61 State Parties at the time of publication.<sup>13</sup> This report will elaborate further on the 1954 Convention when discussing the obligations provided by this Convention. The 1961 Convention will also be discussed in more detail.

In June 2014, UNHCR published the *Handbook on Protection of Stateless Persons* which provides interpretative legal guidance for governments, NGOs, legal practitioners, decision-makers, the judiciary and other stakeholders working on statelessness. The Handbook addresses the definition of a stateless person, procedures to determine who is stateless and the legal status of stateless persons at the national level. UNHCR's Guidelines on Statelessness No. 4 address the prevention of statelessness at birth under the 1961 Convention.<sup>14</sup> Developed on the basis of consultations with international experts and a broad range of stakeholders, the Handbook and the Guidelines will be used in the report to elucidate the obligations stemming from the Conventions.

Other international human rights instruments contain provisions relevant for issues relating to nationality and statelessness. Instruments, like the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC), the Convention on the Elimination of Discrimination Against Women (CEDAW), and the International Convention on the Elimination of Racial Discrimination (ICERD) contain provisions on the right to a nationality, on equal treatment of men and women, and on the prohibition of discrimination. Besides these instruments, the 1951 Convention relating to the Status of Refugees is, according to its Article 1(A) under (2) applicable on stateless refugees.

At the European regional level, the Council of Europe has adopted two instruments of particular relevance to the question of statelessness. The European Convention on Nationality entered into force in 2000 and currently has twenty State Parties.<sup>15</sup> In its Article 4, the European Convention on Nationality states that the rules on nationality of each State Party shall be based on, among others, the principle that statelessness shall be avoided. While broader in scope, covering a range of questions relating to the acquisition and loss of nationality, this instrument contains safeguards similar to those found in the 1961 Convention. Article 6(2) of the European Convention on Nationality provides a safeguard against statelessness at birth similar to that of the 1961 Convention. In addition, Article 7 of the European Convention on Nationality, on the loss of nationality *ex lege* or at the initiative of a State Party, contains a safeguard against statelessness as well.

The European Convention on the Avoidance of Statelessness in Relation to the Succession of States entered into force in 2009 and has, at the moment, six State Parties.<sup>16</sup> It elaborates rules for the acquisition of nationality with a view to preventing statelessness in the particular context of state succession. In addition

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<sup>12</sup> As of October 2014. UN Treaty Collection database, available at: <http://goo.gl/GTvqGf>.

<sup>13</sup> As of October 2014. UN Treaty Collection database, available at: <http://goo.gl/K2uhal>.

<sup>14</sup> UN High Commissioner for Refugees (UNHCR), *Handbook on Protection of Stateless Persons*, 30 June 2014, available at: <http://www.refworld.org/docid/53b676aa4.html>, and UN High Commissioner for Refugees (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*, 21 December 2012, HCR/GS/12/04, available at: <http://www.refworld.org/docid/50d460c72.html>.

<sup>15</sup> Number provided by the Council of Europe's Treaty Office as of August 2014., available at: <http://goo.gl/k7bvWf>.

<sup>16</sup> Number provided by the Council of Europe's Treaty Office as of August 2014, available at: <http://goo.gl/C5CWf5>.

to these two specific instruments, the European Convention on Human Rights (ECHR) is also increasingly relevant to the prevention of statelessness and protection of stateless persons. Although the ECHR does not explicitly protect the right to a nationality, the European Court of Human Rights which is in charge of ensuring the rights contained in the ECHR are not violated, has recognized in its jurisprudence that the impact of the denial of citizenship on a person's social identity brings it within the scope of Article 8 of the ECHR, which enshrines the right to respect for private and family life.<sup>17</sup> Furthermore, the ECHR sets out rights to be enjoyed by all persons within a state's jurisdiction, whether they are the state's own nationals, foreign nationals or stateless persons.

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<sup>17</sup> See *Genovese v. Malta*, Application no. 53124/09, Council of Europe: European Court of Human Rights, 11 October 2011, available at: <http://www.refworld.org/docid/509ea0852.html>.

# 2. Face of statelessness in Iceland

## 2.1 Introduction

To gain an understanding of the scope and consequences of statelessness in Iceland, this chapter aims to provide the face of statelessness. In the following, some background on the legislation will be provided, followed by a quantitative and qualitative analysis of the stateless population in Iceland.

### 2.1.1 Background

### 2.1.2 Historical background

The origin of the Icelandic Nationality Act No. 100/1952 (Nationality Act) can be traced back to the cooperation between Denmark, Norway and Sweden to prepare new nationality laws in 1950, when special rules were being created for Nordic nationals.<sup>18</sup> Although Iceland did not take part in this cooperation, the Nationality Act followed similar lines in relation to the acquisition of nationality through naturalization. Emphasis was placed on unblemished reputation and long period of legal domicile for foreigners who were not Nordic nationals. In addition, foreigners who acquired Icelandic citizenship had to change their names to established Icelandic names.

In line with developments in neighbouring countries, especially Denmark, and developments in international law, various amendments have been made to the Nationality Act since 1952. An important revision was made in 1982, inspired by developments in other Nordic countries in relation to statelessness. A new provision introduced a right for stateless persons to acquire Icelandic nationality at the age of 18 years, provided that the person had been domiciled in Iceland for at least five years. Another new provision stated that Icelandic nationals would not lose their nationality if that would leave them stateless. Various amendments were also made to increase gender equality, as children born in wedlock would now acquire their nationality from their mother as well as from their father.<sup>19</sup> Later amendments to the Nationality Act have been adopted in order to, for example, incorporate the principles of the 1997 European Convention on Nationality.<sup>20</sup>

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<sup>18</sup> The Icelandic Nationality Act no. 100/1952 can be accessed in English at: <http://goo.gl/Ur9MgP>.

<sup>19</sup> The rules of the national legal framework relating to statelessness will be discussed in more detail in chapters 3 and 4.

<sup>20</sup> Summary of the historical development of Icelandic Nationality, traced back to the discovery of the island, can be found in Jóhannesson, G.Th. and Pétursson, G.Th., *EUDO Citizenship Observatory, Country Report: Iceland*, pp. 5-13.

## 2.1.3 National legal framework

The main legal instruments that deal with issues of nationality and statelessness are the Nationality Act and the Act on Foreigners (no. 96 from 2002).<sup>21</sup> The Nationality Act provides the rules on obtaining nationality and – mostly indirectly – prevention of statelessness, as explained in chapter 4 below. The Act on Foreigners is applicable to persons entering Iceland or staying in Iceland without permission to do so on a permanent basis. Apart from these instruments, the Constitution of the Republic of Iceland (no. 33 from 1944) will be referred to at times.

## 2.1.4 Developments

In July 2011, Ögmundur Jónasson, at the time Minister of the Interior, appointed a Committee that was tasked to prepare a policy on foreigners from outside the EEA and EFTA areas. The Committee's results were presented on 28 June 2012, and contained a short chapter on the two statelessness conventions. The committee's findings in relation to the statelessness conventions were that the Icelandic authorities should accede to both, and that the Icelandic authorities should look into the status of stateless children who are living in Iceland.<sup>22</sup>

Moreover, based on the Committee's findings, a proposal was prepared in the autumn of 2012 that would, if passed, replace the current Act on Foreigners. The proposed law, if passed, will however not affect the status of stateless persons to a great extent as only one of the proposed provisions relates to the status of stateless persons. This provision states that the Act should form the fundamental basis for stateless persons to seek protection in accordance with the obligations that the Icelandic authorities have undertaken. The proposal was introduced to the Parliament in the beginning of 2013 but has not been passed. Since the proposal was introduced to the Parliament, a new government was elected in spring 2013. The new government has to date not expressed its opinion in relation to the proposal.

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<sup>21</sup> Act on Foreigners no. 96/2002 can be accessed in English at: <http://eng.innanrikisraduneyti.is/laws-and-regulations/nr/105>, this version does however not include the latest amendments to the Act on Foreigners. The newest amendments are no. 126/2011 and no. 83/2012 but do not directly affect the status of stateless persons. An Icelandic version can be found at: <http://www.althingi.is/lagas/nuna/2002096.html>.

<sup>22</sup> The Committee's report can be accessed in Icelandic at: <http://goo.gl/lmwDpj>.



## 2.2 A statistical overview of the stateless population in Iceland

### 2.2.1 Specifics of the data used

Three main statistical sources have been used in this report: the National Population Register (NPR, *Pjóðskrá*) operated by Registers Iceland; the Alien Register (*Erlendur*) operated by the Directorate of Immigration; and Statistics Iceland which publishes statistics from other statistical sources, most importantly, the NPR.

NPR is the main source of statistics in Iceland. In the NPR, information on all persons residing in Iceland is registered in accordance with published guidelines.<sup>23</sup> Relevant registration codes for the purpose of this study are: ID-numbers, names, sex, civil status, number of children, country of birth and citizenship.

The NPR is operated by Registers Iceland (RI),<sup>24</sup> more specifically by the Division of Public Register and Quality Control, which has its purpose and role stipulated in the Act on the National Population Registry and Civil Registration (No. 54 of 1962) and is supervised by the Ministry of the Interior.<sup>25</sup> The working methods for collecting data are to a large extent unavailable, unknown and unwritten, but due to recent structural changes, improvements in working methods and relationships with other authorities that collect data are in process and to be expected.<sup>26</sup> In addition to running the NPR, the RI also keeps data on foreign citizens who have been granted an ID-number without having a legal residence and are therefore not able to register their legal domicile in Iceland, which includes (stateless) asylum-seekers/asylum-seekers who have been granted a temporary residence permit while waiting for the decision in relation to their asylum claim.<sup>27</sup>

The NPR receives data from various sources, including from the Alien Register (*Erlendur*), which is owned, maintained and mainly used by the Directorate of Immigration (DI), however the National Police also has access to the Alien Register.<sup>28</sup> Registration in the Alien Register by the DI is mainly for internal, administrative use and the DI's main responsibility is laid down in the Act on Foreigners and includes responsibility for persons who apply for a visa, residence permits or asylum.<sup>29</sup>

When a person is granted a residence permit in Iceland that is valid for more than six months, the person is first able to register a legal domicile in Iceland and consequently, the person will be registered in the NPR. The RI, operating the NPR, will hence receive the relevant registration information from the DI as registered in the Alien Register. Although the NPR receives data from the DI as registered in the Alien Register, RI makes its own decisions on nationality and statelessness and does not automatically register the nationality or statelessness of persons according to the registration made by the DI.<sup>30</sup>

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<sup>23</sup> Persons registered are those who have a legal domicile according to the Act on Domicile no. 21 from 1995 but according to the Act, all persons who intend to live in Iceland for 6 months or longer need to register a legal domicile: Article 2 of the Act on Domicile, No. 21 from 1990, interview with RI, 15 August 2012. RI's guidelines can be accessed at: Register Iceland codes, <http://www.skra.is/lisalib/getfile.aspx?itemid=7554>.

<sup>24</sup> On 1 July 2010 the Icelandic National Registry, merged with the Icelandic Property Registry into Registers Iceland.

<sup>25</sup> Art.1 and 3 of the Act on the National Population Registry and Civil Registration, No. 54 from 1962. E-mail from RI, dated 15 September 2012.

<sup>26</sup> Interview with RI, 15 August 2012. Interview with the Directorate of Immigration, 15 August 2012. See also Guðmundsdóttir, S. J., *Changes of the Icelandic National Registry – Future expectations*, Registers Iceland 2012, available at: <http://goo.gl/zBBEhn>.

<sup>27</sup> Registers Iceland, <http://www.skra.is/pages/1228>

<sup>28</sup> Interview with the DI, 15 August 2012.

<sup>29</sup> Interview with the DI, 15 August 2012.

<sup>30</sup> RI's reply dated 14 August 2012, to a questionnaire prepared by the researcher in relation to mapping of statelessness in Iceland, dated 30 July 2012.

The method of registering statelessness is not the same for the two sources of administrative data, the NPR and the Alien Register. The DI registers statelessness in the Alien Register based on the information given by the applicant in the application for a visa, residence permit or asylum and in accordance with the information given during the DI's interviews with the applicant. When a decision has been made in relation to the application, all necessary information in relation to a residence permit or grant of asylum is sent to RI to be registered in the NPR.<sup>31</sup> Even so, RI, which is not obliged to follow the DI's decision on nationality or statelessness as RI will make an independent decision for each person registered as the two authorities operate independently. RI has explained, upon request for the purpose of the present report, that the office registers nationality in accordance with documents that qualify as proof of one's nationality.<sup>32</sup> Registration of nationality is therefore strictly based on a copy of a travel- or identification document provided by the person who is to be registered (either obtained through earlier registration at the DI or directly from the applicant).

According to RI, persons who provide a copy of an alien's passport are registered as stateless as an alien's passport is not considered proof of nationality according to RI's standard. The same goes for persons who are not able to provide a copy of a passport or other identification documents that qualify as a proof of a nationality.<sup>33</sup>

Statistics Iceland, the third source of statistics, produces and publishes statistics drawn from the NPR and thus covers the population with current legal residence in Iceland, among them those persons who are registered stateless in the NPR by the RI.<sup>34</sup>

Despite being able to rely on these sources, a number of problems are still encountered. In the first place, the institutional capacity to produce statistics is limited. Although the statistics published by Statistics Iceland, which are drawn from the NPR operated by the RI, were relatively easy to access, the break down of numbers publicly available is limited. For the purpose of this study, RI provided the necessary break down of numbers.

It was also clear that statistics from the DI would be of great value to the research since the DI registers persons according to their own testimonies and therefore includes persons who claim to be stateless. Until 20 February 2012, the DI's annual reports since the year 2005 were not published, leading to very limited access to statistics. The current Director of the DI has however been able to publish short annual reports on the years 2005-2010 and the 2011 annual report was in process at the time of the research in 2012-2013. Despite good intentions on behalf of the DI, it was only partly able to provide the requested statistics for the purpose of this research, as the DI had to go manually through applications in order to provide the necessary statistics. The limited capacity of the DI thus influences the quality of the statistics published and analysed in this research.

Secondly, the difference in working methods between the DI and RI, and the lack of a clear definition of a stateless person is also causing difficulties. Within the different registration authorities, no published rules or guidelines could be found concerning how to determine if someone is stateless when the nationality of a person is registered. Consequently, one of the challenges was to try to define who, among those registered as stateless, were indeed stateless persons according to the definition in the 1954 Convention. Due to RI's strict working method, a number of persons who would probably not fall under the definition of the 1954 Convention have been registered as stateless. Further, it was also challenging to find out if the working

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<sup>31</sup> In accordance with section 4 (6) of the Act on the National Population Registry and Civil Registration; Interview with Directorate of Immigration, 15 August 2012.

<sup>32</sup> This practice is not formally laid down and illustrates that in the absence of a statelessness determination procedure a clear registration guideline of statelessness is helpful.

<sup>33</sup> RI's reply dated 14 August 2012, to a questionnaire prepared by the researcher in relation to mapping of statelessness in Iceland, dated 30 July 2012 and an interview with RI, 15 August 2012.

<sup>34</sup> Consequently, Statistics Iceland provides largely the same data as RI, only it does not include foreigners with an ID-number but without legal domicile in Iceland.

method behind the registration of statelessness or nationality could lead to circumstances where stateless persons would not have been identified.

Two other registries will also be discussed in this report, the Register of Outsiders (*Utangarðsskrá*) operated by Registers Iceland and the register of the National Police (LÖGE) operated by the Icelandic National Police.

## 2.2.2 The target population

As mentioned before, RI registers a person as stateless if he or she is not able to present a copy of his or her passport confirming nationality. As of 25 November 2013, the number of persons registered by RI as stateless based on this working method was 128; 59 being females and 69 males, with age distribution ranging from two persons being born in 1925 to three children born in 2013.

For the purpose of this research, RI provided information about the country that the stateless person came from before entering Iceland, which can shed light on the origin of the stateless population in Iceland. Within the NPR, persons are registered with the use of codes, where each nationality has its own code. In addition to the nationality codes, there are number of unspecific codes such as XX which stands for 'Foreign country - unspecified', and 'Europe unspecified'.<sup>35</sup> Persons that are registered as stateless, are therefore also registered with a code which represents the country from which the stateless person came from before entering Iceland.

According to the information provided by the RI the largest group of stateless persons which was registered by RI as of 25 November 2013 came from Iraq, 27 persons. The second largest group of stateless persons came from Latvia as there were 19 persons registered stateless as of 25 November 2013.

According to RI's breakdown 32 persons of the 128 stateless persons who were registered in NPR as of 25 November 2013, were children who had not attained the age of 18. When assessing the countries from which the children came it is clear that 13 children came from Iraq. The second largest group of children that was registered stateless as of 25 November 2013 were born in Iceland, nine children. Other children came from Sudan (2 children), Armenia (1 child), Eritrea (1 child), Iran (1 child), and Latvia (1 child). One child was registered as coming from 'Europe – unspecified' and three children were registered as coming from a 'Foreign country –unspecified'.

In addition to the break down provided by RI, various stakeholders were contacted in order to shed light on the origin and causes of stateless persons in Iceland.

The Ministry of Welfare confirmed that resettled refugees (or 'quota refugees') in Iceland are registered as stateless in cases where they cannot present a copy of their passport.<sup>36</sup> The number of resettled refugees in Iceland is approximately 60 persons, coming from Columbia and Iraq (the refugees from Iraq are Palestinians). Although Iceland has formally recognized Palestine as a sovereign state as of 29 November 2011, when the Icelandic parliament passed a resolution to that effect,<sup>37</sup> the Palestinians from Iraq are also registered in accordance with RI's working method of registering nationality in accordance with a copy of a presented passport. Resettled Palestinian refugees from Iraq who were not able to provide documentation of them being Palestinians have therefore been registered as stateless despite the recognition of the Palestinian state. It also explains to some extent the fact that the largest group of stateless persons in Iceland according to RI's statistics are registered as coming from Iraq.

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<sup>35</sup> RI guidelines, p. 6, <http://www.skra.is/lisalib/getfile.aspx?itemid=7554>.

<sup>36</sup> Interview with a specialist at the Ministry of Welfare, dated 17 August 2012.

<sup>37</sup> Althingi (The Icelandic Parliament), resolution No. 1/140, dated 29 November 2011, <http://www.althingi.is/altext/140/s/0407.html>.

Another interviewed stakeholder, the Icelandic Human Rights Centre (IHRC), stated that the office has provided legal counselling to approximately 20 stateless persons since the year 2004.<sup>38</sup> According to the IHRC, 15 out of 20 were stateless persons of Russian origin, with Latvian ‘non-citizen status’ or Lithuanian ‘unresolved status’. The IHRC further stated that in their experience the gender distribution was somewhat equal and age distribution was from 20 years old, the oldest person of concern being over 70 years.

Based on the information obtained from the IHRC, the following table illustrates some of the causes of statelessness that these stakeholders encountered. Apart from the aforementioned persons of Russian descent from Latvia and Lithuania, five stateless persons had lost their citizenship, their origin being Cuba, Iran and Kosovo.

**Table 1:** Causes of statelessness

Causes of statelessness	No. of clients
<b>Not registered at birth</b>	15, being of the Russian descent in Latvia and Lithuania <sup>39</sup>
<b>Had a citizenship but lost it</b>	1 from Cuba and 1 from Iran, 3 from Kosovo
<b>Had a citizenship but was deprived of it</b>	N/A
<b>Had a citizenship but renounced it</b>	N/A
<b>Never had a citizenship of a country</b>	15, see above
<b>Other</b>	N/A

Source: the Icelandic Human Rights Centre

### 2.2.2.1 GROUPS COVERED BY ADMINISTRATIVE DATA

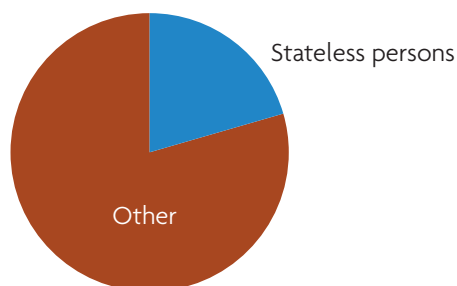
The statistics will be divided based on the source of the statistics:

1. Stateless persons seeking asylum (including application and granting rates and enforcement and deportations in case of rejections);<sup>40</sup>
2. Stateless persons living in Iceland with a legal domicile (in possession of any type of residence permit that is valid for more than six months).<sup>41</sup>

#### AD 1) STATELESS PERSONS SEEKING ASYLUM (INCLUDING APPLICATION AND PROTECTION RATES AND ENFORCEMENT AND DEPORTATIONS IN CASE OF REJECTIONS)

The total number of asylum applications submitted in Iceland was 220 between the years 2008-2011. The number of asylum applications submitted by stateless persons during the same period was 45 applications from 44 stateless persons (one person applied twice).

**Figure 1:** Asylum applications (2008-2011)



Source: E-mail from DI, 24 September 2012.

<sup>38</sup> The Icelandic Human Rights Centre’s reply, dated 17 September 2012, to a questionnaire sent 2 August 2012.

<sup>39</sup> The Centre did not have any experiences with persons from Estonia.

<sup>40</sup> According to data received from DI. Numbers of stateless persons seeking visa entries or other residence permits are not available for Iceland.

<sup>41</sup> According to data received from RI and Statistics Iceland. Data on naturalizations will be provided in section 4.3.4.1 on Naturalization.

This figure shows that 20.45% of all asylum applications are submitted by applicants registered as stateless by DI, based on the information given by the applicant.

Out of these 44 stateless applicants, 23 were granted refugee status, which is a protection rate of 52.27%. Consequently, 21 stateless persons received a rejection of their asylum claim. Therefore, in theory 21 persons that were denied asylum and ought to have been deported during the period, notwithstanding that they were registered as stateless and notwithstanding that stateless persons are often ‘non-returnable’ as a result of their statelessness.

For the purpose of this study, questionnaires on, *inter alia*, the number and status of ‘non-returnable’ persons were sent to the DI and the International Department of the National Commissioner of the Icelandic Police. Despite willingness to provide the requested statistics, neither of the two offices were able to produce statistics on their practice when it comes to deportation of stateless persons who have been rejected asylum in Iceland.<sup>42</sup> In the case of the DI, the requested information was not available since the main responsibility to deport rejected asylum-seekers lies with the National Police. When a similar questionnaire was sent to the International Department of the National Commissioner (as the central office for the National Police), the Ministry of the Interior, as their supervisor, made a decision that the police did not have any legal grounds to provide the requested statistic information on ‘non-returnable’ stateless persons.<sup>43</sup>

## **AD 2) STATELESS PERSONS LIVING IN ICELAND WITH A LEGAL DOMICILE (IN THE POSSESSION OF ANY TYPE OF RESIDENCE PERMIT WHICH IS VALID FOR MORE THAN SIX MONTHS)**

Stateless people who have established their legal residence valid for more than six months and consequently who are able to register their legal domicile in Iceland, are registered in the NPR and the statistics are produced and published by Statistics Iceland. According to published statistics, the number of stateless persons with a legal residence in Iceland has, as indicated in the table below, increased since 2002 when there were only 34 stateless persons with legal residence in Iceland.

**Table 2:** Stateless person with legal domicile in Iceland (2002-2012)

Year	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012 <sup>44</sup>
<b>Statelessness</b>	34	32	35	39	53	87	119	113	113	94	106

Source: Statistics Iceland.

According to the population figures from RI, the stateless population living in Iceland with legal domicile as of 25 November 2013 is 128 persons. In a population of 325.010 persons as of 1 October 2013,<sup>45</sup> the stateless population is approximately 0.039%.

As explained in chapter 2.2.2, the RI uses codes when registering persons, where the code XZ is used for stateless persons, the code XX stands for ‘foreign’, and there is also a code for ‘Europe unspecified’ as well as for the other continents.<sup>46</sup> Some of the codes used in the past are no longer in use, such as the code for the former Soviet Union. It is therefore possible that some persons who could be registered as stateless today are

<sup>42</sup> The statistics request in the form of a questionnaire can be found in Annex I.

<sup>43</sup> E-mail from DI, of September 2012, e-mail from The International Department of the National Commissioner for the Icelandic Police dated 17 August 2012 and e-mail from the Ministry of the Interior, dated 16 August 2012.

<sup>44</sup> As of 1 September 2012.

<sup>45</sup> Statistics Iceland, press release no. 205/2013, 15 October 2013.

<sup>46</sup> RI guidelines, p. 6, <http://www.skra.is/lisalib/getfile.aspx?itemid=7554>.

registered with another, older, code. Table 3 gives an idea of the number of persons registered under codes other than 'XZ stateless' but who could possibly be stateless.<sup>47</sup>

**Table 3:** Person registered under other codes, yet who could possibly be stateless

	With legal domicile	With habitual residence <sup>48</sup>
<b>SU Former Soviet Union</b>	0	10
<b>YU Former Yugoslavia</b>	11	22
<b>QR Kosovo</b>	71	0
<b>XT Africa Unspecified</b>	0	1
<b>XX Foreign Country</b>	0	5
<b>CS Serbia and Montenegro</b>	29	8

If a person registered with one of the described codes intends to change his or her registration in the NPR, he or she will need to show a documentation proving nationality.<sup>49</sup>

### 2.2.2.2 GROUPS NOT COVERED BY ADMINISTRATIVE DATA

The statistics described above cover those persons who somehow got in touch with the authorities, for example when applying for a residence permit or asylum. Irregular migrants who have never been in touch with the authorities are therefore not included in such data. In order to obtain information on stateless persons among irregular migrants that have not been in touch with the authorities by such means as an application for asylum or residence permit, information was sought from organisations that are in contact with irregular migrants, such as humanitarian organizations as well as the National Police.

However, it remains difficult to define the number of people not covered by administrative data. The task of finding out the number of persons in the 'hidden population' of irregular migration is ambitious, even for the purpose of drawing the most general conclusions such as number of irregular migrants living in Iceland, let alone number of stateless persons not covered by administrative data. Due to the limited resources and time, it has proven impossible to use proactive methods for mapping the number of stateless persons not covered by administrative data. To deal with this challenge, a questionnaire was sent to 12 stakeholders from various sectors and eight of these were interviewed in order to gain an insight into the number and status of stateless people not covered by administrative data.<sup>50</sup>

According to Article 53 (1) of the Act on Foreigners, any foreigner shall, when requested by police, show his/her identity documents and provide information in order to ascertain his/her identity and the lawfulness of stay in Iceland. In light of this provision, the International Department of the National Commissioner for the Icelandic Police, as a central office for the National Police, was contacted in order to gain information on the number of persons in an irregular situation who have been in contact with the National Police. Despite good intentions, the National Commissioner was not able to present this statistical information due to the lack of a legal basis requiring disclosure.<sup>51</sup>

<sup>47</sup> As of 1 September 2012.

<sup>48</sup> Persons registered with habitual residence are those who have not received a residence permit valid for more than six months and consequently were not able to register a legal domicile. RI registers persons in this situation in the *Register of Outsiders (Utangarðsskrá)*.

<sup>49</sup> PR's reply dated 14 August 2012, to a questionnaire prepared by the researcher in relation to mapping of statelessness in Iceland, dated 30 July 2012.

<sup>50</sup> These stakeholders are: Reykjavik city; the Welfare centre of the city centre and Hlidar; the International House; the Icelandic Human Rights Centre; the Icelandic Red Cross; UN Women; UNICEF; Women of Multicultural Ethnicity Network; Multicultural and Information Centre; InterCultural Iceland; Stigamót (Women's emergency shelter); and the National Police.

<sup>51</sup> E-mail from the International Department of the National Commissioner for the Icelandic Police dated 17 August 2012 and email from the Ministry of the Interior, dated August 2012.

In addition, various NGOs and actors in the social services were sent a questionnaire, in which they were asked, amongst other things, if they had worked with or on behalf of stateless persons in Iceland.<sup>52</sup> None of the contacted NGOs did recall cases of stateless persons they had come across who were not covered by administrative data.<sup>53</sup> Due to the small size of the Icelandic society and geographical location of the country, it is plausible that the NGOs have not had contact with stateless persons not registered in one of the registries.

### 2.2.3 Conclusions

There are two main sources for data: the NPR and the Alien Register. The NPR is run by the RI and SI draws data from this database. The Alien Register is run by the DI. Both the DI and RI have different methods for establishing if a person is stateless, where the DI bases its determination on the person's statement and RI is not obliged to adhere to this determination. RI bases its determination on copies of passports or other identification documents. The working methods are not entirely clear, yet cooperation is starting to improve.

Based on these sources, it becomes clear that about 20% of asylum-seekers are stateless, which comes down to 44 persons over a three year period. It must be stressed that this number is based on the asylum-seeker's statement of being stateless. As of 25 November 2013, 128 stateless persons were living in Iceland and these numbers were registered by RI in the NPR. It is possible that some registered stateless persons living in Iceland are not stateless but could not present a passport, and it is moreover possible that more stateless persons are living in Iceland and not registered as stateless, but under codes like 'foreigner' or 'unspecified'. Further research is required to identify the stateless persons in this group.

The largest groups known to be registered as stateless, even if (some persons within) these groups are possibly not meeting the definition of the 1954 Convention are a) asylum-seekers who have been granted asylum in Iceland and are not able to present a passport; b) resettled Palestinian refugees from Iraq; and c) persons of the Russian minority from Latvia presenting an alien's passport when immigrating to Iceland (the so-called 'non-citizens').

Further, there has been an attempt to map out the stateless population not covered by administrative data. To this end, questionnaires were sent to various organisations who could potentially have contact with this group. None of the organisations recalled cases of stateless persons falling outside the categories covered by administrative data. This is plausible when taking into account the size of Icelandic society, Iceland's geographical location as an island and the generally low number of stateless persons in Iceland.

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<sup>52</sup> The questionnaire sent can be found in annex II.

<sup>53</sup> Interviews and replies to questionnaires from NGOs.

## 2.3 Qualitative analysis of stateless persons

### 2.3.1 Specifics of the information used

The scope of the current mapping project did not include room for participatory assessments with the stateless population in Iceland. Instead, the relevant organisations and NGOs were approached as described in section 2.2.2.2. A questionnaire was sent with the goal to catch the human face of statelessness in Iceland from the viewpoint of those closest to stateless persons. In the absence of any written reports or of specific stakeholders who have emphasized the issue of statelessness, the goal was to specify the number of stakeholders who could possibly have information on stateless persons in Iceland and would thus be interviewed in order to gain more information.

As explained in section 2.2.2.2, 12 questionnaires were sent which were all answered.<sup>54</sup> However, most respondents answered that they did not know whether they had worked with stateless persons. Only the Icelandic Human Rights Centre provided information on experience with stateless persons.<sup>55</sup>

### 2.3.2 Procedural aspects

Apart from the stateless persons of Russian descent, the stateless population in Iceland is mostly one of refugees and asylum-seekers. Their contact with judicial and administrative procedures has therefore mostly been in relation to their application for asylum, where their statelessness *per se* does not seem to have been given much attention. Others, for example the quota refugees who have been resettled in Iceland, do not seem to have been in much contact with either administrative or judicial procedures.

### 2.3.3 The human face of statelessness

A part of the population of resettled refugees had faced persecution due to a lack of nationality.<sup>56</sup> They have thus faced various problems due to their statelessness before arriving in Iceland. Yet also for stateless persons staying in Iceland, some problems have developed after arrival.

According to interviewed stakeholders working amongst others with women's rights in Iceland, a number of stateless women from Latvia of Russian descent (with a status of 'non-citizens' in Latvia), were trafficked to Iceland for the purpose of prostitution, mostly during the strip clubs era. Although the traffickers arranged residence and/or work permits for them, the interviewed stakeholders state that the vulnerability of stateless persons to exploitation could probably still be found in Icelandic society, although hidden in the underground world.<sup>57</sup>

Another problem relates to the so-called 'non-returnables'. Rejected asylum-seekers who are not allowed to stay in Iceland and do not return voluntarily risk deportation, which sometimes is impossible to execute due to statelessness. In case of failed deportations, these stateless persons are left in legal limbo in Iceland,

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<sup>54</sup> See the questionnaire and list of recipients in annex II.

<sup>55</sup> The National Police also provided useful information. The Ministry of the Interior however made clear that this information could not be shared and is therefore not included in the report.

<sup>56</sup> This was for example the case of the approximately 30 Iraqi Palestinians resettled to Iceland in 2009.

<sup>57</sup> Interview with the Icelandic Human Rights Centre, W.O.M.E.N, and Social Services Reykjavik, 16 August 2012. The Ministry of the Interior confirmed this understanding, although the MoI only recalled one case of a stateless person that had been trafficked to Iceland for the purpose of prostitution. E-mail from the Ministry of the Interior of October 2012.



although some of them may obtain a temporary residence permit.<sup>58</sup> Although the temporary residence permits are renewed in many cases, the permits usually do not exceed six months, the latter period being the minimum requirement for a person to be registered with legal domicile and thus to be registered in the NPR, which is the key to all rights and obligations in the Icelandic society. Consequently, the temporary residence permit does not under the law entitle the holder to social services. However, it is the experience of the Icelandic Human Rights Centre that the situation of these persons is dealt with on a case-by-case basis and that the holders of the permit do receive social benefits and other necessary assistance. Interviews with stakeholders, among others the International Department of the National Commissioner of the Icelandic Police, the National Icelandic Red Cross and the Icelandic Human Rights Centre confirmed that ‘a number’ of ‘non-returnable’ stateless persons are currently living in Iceland, although the number cannot be specified.<sup>59</sup>

The Icelandic Red Cross, UNHCR’s main partner in Iceland, recalled that among the rejected asylum-seekers waiting for their decision on appeal, is a stateless family (including one child) who supposedly will be ordered to leave the country if their asylum claim is rejected upon appeal. This family claims to be Russian, yet the Russian authorities do not recognize the family as Russian and have not agreed on a right for the family to enter its territory. The family had a temporary residence permit, allowing them to work, and later applied for a residence permit on humanitarian grounds, under review by the Ministry of the Interior at the time of the research. The DI and the International Department of the National Commissioner for the Icelandic Police, responsible for international affairs and guiding the different police districts on law enforcement, have confirmed that this is a situation that they often face when returning rejected stateless asylum-seekers.<sup>60</sup>

### 2.3.4. The situation of stateless children in Iceland

None of the contacted stakeholders, including those who usually write shadow reports to the UN treaty monitoring bodies and the Universal Periodic Review (UPR) of the Human Rights Council, recalled problems that stateless children born in Iceland could face due to their statelessness.<sup>61</sup> Stakeholders that specialize in advocacy, counselling and research on the status of children, for example UNICEF, Save the Children and the Government Agency for Child Protection, had also not come across stateless children in their work and were not familiar with the situation of children born in Iceland with a lack of a nationality.<sup>62</sup>

In general, health care services, education and other opportunities for children are not linked to citizenship. If the child has a residence permit in Iceland that is valid for at least six months, registration of legal domicile is possible and the child will consequently be registered in the NPR, thus receiving a social security number and being provided with the relevant services and rights to which a child is entitled. If a stateless child is born to an asylum-seeking parent or parents who have not yet received a residence permit in Iceland that is valid for at least six months, their status is somewhat different. Although the mother and the child will be provided with basic health care services and the child will be eligible to attend pre-school and elementary school, both the mother and the child will still be missing the ‘key’ to Icelandic society, being registration in the NPR and the social security number which is issued upon such a registration. This situation is therefore not directly linked to persons being stateless *per se*, as being eligible for almost all basic services in Iceland is linked to the NPR registration. That said, a person will not be registered in the absence of a residence permit that is valid for at least six months and an entitlement to legal domicile.

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<sup>58</sup> This is decided on a case-by-case basis. The Act on Foreigners provides the possibility to obtain a temporary residence permit in cases where a person cannot be expelled.

<sup>59</sup> Interview with the Icelandic Red Cross, 17 August 2012. Interview with the Icelandic Human Rights Centre, 16 August 2012.

<sup>60</sup> Interview with DI, 15 August 2012 and interview with the International Department of the National Commissioner for the Icelandic Police, 15 August 2012.

<sup>61</sup> Interviews were i.a. conducted with the Icelandic Human Rights Centre, the Icelandic Red Cross, UNICEF, Reykjavik Social Services, the Ministry of Welfare, Save the Children and the Government Agency for Child Protection.

<sup>62</sup> Interview with UNICEF of 16 August 2012, e-mails from Save the Children and the Governmental Agency for Child Protection, dated September 2012.

Parents seeking asylum or a residence permit on humanitarian grounds do not have a stronger case for obtaining such permits if their child is born in Iceland pending the procedure.<sup>63</sup> As explained later, the Nationality Act provides different time limits for naturalization of stateless children who have a residence permit in Iceland. These time limits are, however, not specifically aimed at solving the situation of stateless children born in Iceland. As a result there are nine stateless children born in and living in Iceland as of 25 November 2013.<sup>64</sup>

### 2.3.5 Conclusions

To provide the qualitative analysis of the stateless population in Iceland, questionnaires were sent to a number of organisations that could possibly have worked with stateless persons and some of these stakeholders have been interviewed. An extensive assessment of the experiences of stateless persons in Iceland was not part of this research.

From the answers to the questionnaires it has become clear that the organisations hardly had any experience with stateless persons. Only few problems could be encountered. One of these is the concern for a group of women from Latvia who have, according to Icelandic Human Rights Centre, been trafficked into Iceland in recent years and may even still be found working in prostitution. Another problem relates to the situation of 'non-returnables' who find themselves in a legal limbo in Iceland according to a number of stakeholders.

No respondent had any contact or experiences with stateless children, either born abroad or in Iceland. Where stateless children have a residence permit for less than six months, they are not entitled to social services. This is a problem.

## 2.4 Conclusions and recommendations

Iceland is not party to either of the UN Conventions on statelessness. While there is some attention to the issue, it proved difficult to map the stateless population in Iceland. Part of the problem lies in the availability of data. The DI and RI both register people according to their nationality or statelessness, but they have different methods to determine whether a person is stateless. Moreover, RI does not have to adhere to the determination made by the DI. The data on stateless persons in Iceland is therefore not very precise or accurate. Neither are the statistics easily accessible. In order to present accurate statistics, the DI and the RI were asked for a further breakdown of numbers. Both the DI and RI provided the requested statistics for the purpose of this research. The DI even provided the requested statistics despite the fact that it was both time consuming and problematic for the DI as it had to manually go through each of the applications due to out-dated software.

Based on the statistics provided, it can be concluded that around 20% of asylum-seekers are stateless, which comes down to 44 persons in the period 2008-2011, and that the annual number of stateless persons living in Iceland since 2008 range from around 100 to 133. There is further a possibility of stateless persons being amongst persons who are not covered by administrative data, i.e. irregular migrants. The number of irregular migrants in Iceland is however unknown.

The stakeholders, who filled out questionnaires and with whom interviews were conducted, explained that they have not had much experience with stateless persons and especially not with stateless children. A problem that is nonetheless mentioned relates to 'non-returnable' persons, who sometimes receive a temporary residence permit, yet do not under the law have access to social services (but do receive assistance

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<sup>63</sup> The Act on Foreigners does not foresee any legal remedies or rights in these cases.

<sup>64</sup> See section 4.3.1 on the avoidance of statelessness at birth.

on an *ad hoc* basis, see chapter 2.3.3). These persons find themselves in a legal limbo in Iceland. The Icelandic legal framework on statelessness will be considered in the next two chapters.

With these findings in mind, it is recommended that the definition of a stateless person contained in the 1954 Convention is incorporated into Icelandic legislation and that guidelines setting out the criteria and procedures for identifying and registering a person as stateless contain the same definition, as well as criteria for its application based on the guidance contained in the UNHCR Handbook on Protection of Stateless Persons. It is moreover recommended to clearly define, in these procedural guidelines, the roles and responsibilities of the government authorities involved in the registration of persons in the territory of Iceland, in the respective databases (e.g. LÖGE and *Erlendur*), to ensure a consistent approach. Furthermore, the ability to consolidate and produce accurate age and sex-disaggregated statistics on the stateless population in Iceland needs to be enhanced, to enable analysis of the situation and its origins. In this regard, the limited capacity of the DI to generate accurate statistics in a timely manner would need to be considered. Finally, it would be useful to undertake further research, focusing on the face of the stateless population in Iceland, including the origins of the persons concerned, their experience from the Icelandic administrative and law enforcement system and the opportunities and challenges they face in Iceland, as stateless persons of different ages, gender and backgrounds.

# 3. Determination of statelessness and rights attached to the status

## 3.1 Introduction

It has been explained in the introductory section above that the 1954 Convention sets out the definition of a ‘stateless person’. This definition identifies the persons who are entitled to the protection provided by the 1954 Convention. While ultimately only the acquisition of a nationality will end a person’s statelessness, in situations where this is not (yet) possible, it is necessary to protect stateless persons.<sup>65</sup> Having a statelessness determination procedure makes it possible to identify those persons who are entitled to the protection regime of the 1954 Convention.

For a statelessness determination procedure to be fair and efficient, a number of procedural safeguards must be taken into consideration. The procedure must be accessible for stateless persons<sup>66</sup> and while the procedure is underway, applicants should be entitled to a certain number of rights.<sup>67</sup> During the procedure, stateless persons may not be detained for reasons relating to their statelessness. Where they are detained, it must be a measure of last resort and the person may not be held with convicted criminals or individuals awaiting trial.<sup>68</sup> Moreover, pending the outcome of the procedure, the applicant may not be expelled from the State where the procedure is ongoing.<sup>69</sup>

When a person’s statelessness has been determined, he or she is entitled to the rights of the 1954 Convention. In the first place, this means granting the right of residence, which is not explicitly laid down in the 1954 Convention, but follows from its object and purpose.<sup>70</sup> Also, stateless persons have a right to work, based on Article 17 of the 1954 Convention.<sup>71</sup> The right to public relief (of Article 23 of the 1954 Convention) and the right to identity and travel documents (Articles 27 and 28 of the 1954 Convention respectively) are further important rights for persons recognized as stateless to be discussed here. Apart from the 1954 Convention, other instruments also provide content to the protection of stateless persons. Human rights law, for example the ICCPR, the International Covenant on Economic, Social and Cultural Rights (ICESCR), the CRC, CEDAW and – in Europe – the ECHR, contains certain rights especially relevant for the protection of stateless persons.

In the following, the rights of stateless persons as provided by the international legal framework will be addressed and compared to the standards provided within the national legal system. This includes a

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<sup>65</sup> UNHCR recommends nationality campaigns or nationality verification procedures for those populations that have long-established ties with the state, including long-term habitual residence or residence at the time of state succession. UNHCR, Handbook on Protection of Stateless Persons, paras. 58-59.

<sup>66</sup> UNHCR, Handbook on Protection of Stateless Persons, paras. 68-70.

<sup>67</sup> *Ibid.*, paras. 144-146.

<sup>68</sup> *Ibid.*, paras. 112-115.

<sup>69</sup> *Ibid.*, paras. 72 and 145.

<sup>70</sup> *Ibid.*, para. 147.

<sup>71</sup> Moreover, Articles 18 and 19 of the 1954 Convention provide the rights to self-employment and to practice liberal professions.

description of administrative and judicial procedures in which the determination of statelessness may take place, even though these procedures do not have the establishment of statelessness as a specific aim.<sup>72</sup>

## 3.2 National legal framework

Iceland has a dualistic system of law, meaning that international and regional conventions to which Iceland is a State Party, will not be applicable before Icelandic courts or other law enforcement authorities unless special measures have been taken. Exceptions can be made if the provisions of the convention in question are already in line with domestic legislation and thus, no legal amendment is needed.<sup>73</sup> In other cases, the Parliament (Althingi) implements the necessary amendments in domestic legislation.<sup>74</sup> Such implementation can take place either by incorporation, which has happened in the case of the European Convention on Human Rights, which is incorporated in whole into the Icelandic legislation (which means that it is translated in full and made into an 'Icelandic law')<sup>75</sup> or by transformation, which has been done for the 1951 Convention where relevant provisions in various Icelandic laws were changed in order to meet the standards of the 1951 Convention.<sup>76</sup>

Iceland has not acceded to the 1954 Convention (nor to the 1961 Convention), unlike the other Nordic countries. This explains to some extent the absence of a specific statelessness determination procedure. However, Iceland has already taken on obligations in relation to statelessness in other more general human rights instruments as well as the 2007 European Convention on Nationality.

Although statelessness has not been defined in Icelandic legislation, the contacted Icelandic authorities seemed to be familiar with the definition of a stateless person provided in the 1954 Convention.<sup>77</sup> Nevertheless, when examining the working methods of the same authorities, it becomes clear that they do not seem to define a stateless person in accordance with the 1954 Convention in their procedures, as was seen in the previous chapter. In addition, the definition or description of a stateless person seems to differ between the authorities and none of the authorities seem to carry out an independent research of the nationality/statelessness of the person of concern except for the purpose of establishing identity.

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<sup>72</sup> UNHCR Handbook on Protection of Stateless Persons, para. 57.

<sup>73</sup> As decided by the legislative body by initiative from the relevant Ministry having reviewed the legislation.

<sup>74</sup> Thorarensen, B., Staða og áhrif mannréttindasamninga Sameinuðu þjóðanna í íslenskum rétti, *Mannréttindasamningar Sameinuðu þjóðanna – Meginreglur framkvæmd og áhrif á íslenskan rétt*. Bókaútgáfan Codex, Reykjavík 2009, p. 343. Aust, Antony, *Handbook of International Law* (2005), p. 76.

<sup>75</sup> Act No. 62 from 1994.

<sup>76</sup> Gazettes publisher. 2001-2002, A-division, p. 3149.

<sup>77</sup> RI reply to a questionnaire prepared for this research, dated 14 August 2012, interview with the DI, 15 August and interview with the Ministry of the Interior, 28 October 2012.

## 3.3 Statelessness determination procedure or other procedures in which statelessness status is determined

Despite references made to statelessness in various legal acts, no definition of statelessness or of a stateless person is to be found in the Icelandic legislation. The missing link is thus to determine who is eligible for the rights and the duties attached to the status of statelessness that are already stipulated in the Icelandic legal system. In the absence of a specific statelessness determination procedure where stateless persons can seek their rights based on the 1954 Convention and national law, the integrated evaluation of one's nationality or lack thereof in the immigration procedures, i.e. the refugee status determination procedure, becomes relevant.

For non-immigrant stateless persons, their registration with the RI is the only procedure available to determine their statelessness. The registration with RI becomes relevant for persons who have already been granted asylum or a residence permit on other grounds that is valid for more than six months. In the previous chapter, it has already been explained that RI registers persons as stateless when they cannot present identification documents, even if the DI has already registered these persons under a certain nationality.

The procedures by the DI and RI of registering persons as stateless will be assessed in the following.

### 3.3.1 Competent authority

While there is no dedicated authority in Iceland to determine statelessness, the assessment of a person's nationality or lack thereof can take place in a number of situations and procedures by a number of authorities.

The Minister of the Interior bears the overall responsibility for all matters covered by the Act on Foreigners.<sup>78</sup> Three different administrative offices are also of relevance in the evaluation of nationality or statelessness during the refugee status determination procedure due to their role as authorities responsible for the implementation of the Act.<sup>79</sup> These are the National Police, the International Department of the National Commissioner of the Icelandic Police and the DI.

The National Police investigates the identity of persons who cross the borders of Iceland and who fail to present a passport or otherwise provide sufficient proof of their identity, which includes their nationality or lack thereof.<sup>80</sup> The International Department of the National Commissioner of the Icelandic Police assists the National Police by contacting relevant international units and other authorities that might shed light on the person's identity and travel route.<sup>81</sup> If the person under investigation applies for asylum, then that investigation will take place in cooperation with the DI, which is the competent authority at first instance in all asylum cases.<sup>82</sup> Decisions made by the DI may be appealed to the Ministry of the Interior.<sup>83</sup>

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<sup>78</sup> Article 3 (1) of the Act on Foreigners, No. 96 from 2002.

<sup>79</sup> Article 3 (2) of the Act on Foreigners, No. 96 from 2002.

<sup>80</sup> Article 3 (2) and 29 of the Act on Foreigners, No. 96 from 2002.

<sup>81</sup> Interview with the International Department of the National Police, 15 August 2012. See also Art. 50 b (1) of the Act on Foreigners, No. 96 from 2002. These international units and other authorities are for example the Schengen Information System and Europol.

<sup>82</sup> Art. 6 (8), 10 (3) and 50 a (3) of the Act on Foreigners, No. 96 from 2002.

<sup>83</sup> Art.30 (1) of the Act on Foreigners, No. 96 from 2002. The Ministry of the Interior acts therefore both as the supervising authority and the second instance body reviewing the decision taken at first instance.

If an asylum application is rejected, the person will not be registered in the NPR by the RI. For those persons, the assessment of the nationality or lack thereof carried out by the DI will stand.<sup>84</sup> Even where the person is 'non-returnable', the evaluation of nationality or lack thereof by the DI (and the Ministry of the Interior in case of an appeal) is not reviewed.

For recognized refugees and other stateless persons who are granted a residence permit in Iceland that is valid for more than six months, RI will register the person in the NPR and issue a social security number. A person's registration into the NPR is a prerequisite for being eligible to access the rights and duties of persons legally residing in Iceland. The registration in the NPR includes information about the person's nationality or statelessness. The assessment of nationality or lack thereof, carried out by the DI, is not binding for RI. RI can itself assess the applicant's statelessness but RI's role in this regard is not clearly drawn from a legal source.<sup>85</sup>

## 3.3.2 Procedural aspects

### 3.3.2.1 INITIATING THE PROCEDURE AND THE COURSE OF THE PROCEDURE

An application for asylum must be lodged with the National Police, which is responsible for receiving an asylum application according to Article 50(a)(1) of the Act on Foreigners. Although the Police will register, in the police register (LÖGE), the nationality or statelessness of the applicant in accordance with the information given by the applicant, the applicant needs to provide a passport or other travel document together with the application. If the applicant does not present a passport or other recognized travel document, the applicant's identity is not thought to be established and will be investigated further by the Police. The registration of the applicant's nationality or statelessness at this stage is therefore only for internal use for further investigation although it is shared with the DI.<sup>86</sup>

At the DI, which is responsible for the second and more thorough interview with the asylum applicant, the registration of nationality or statelessness is registered in the DI's registration system (Alien Register), in accordance with the information given by the applicant.<sup>87</sup> In case of inconsistencies or if the investigation carried out by the National Police has revealed new information about the origin or possible citizenship of the applicant, the applicant will also have a chance to correct or confirm this information.<sup>88</sup>

During the asylum application procedure, in some cases the DI applies for a social security number at RI on behalf of the asylum-seeker.<sup>89</sup> At that point, the applicant is for the first time registered with RI. Nevertheless, since asylum-seekers at this point cannot establish a legal domicile in Iceland (as they will not have a residence permit that is valid for more than six months), they will not be registered in the NPR, but in a separate registration system also run by RI and which is mainly used for persons staying in Iceland without legal domicile and a residence permit that is valid for more than six months. This registration system is called the 'Registry of Outsiders' (*Utangarðsskrá*). Since RI will strictly register persons in accordance with a copy of a passport, which many asylum-seekers do not possess, those who cannot present a copy of a passport will already be registered stateless at this point by RI. The lack of a travel document or passport does not

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<sup>84</sup> Subject to an appeal of the DI's decision.

<sup>85</sup> For example, the Act on the National Population Registry and Civil Registration, No. 54 from 1962 does not grant such authority.

<sup>86</sup> No information was available for the purpose of this research about the different codes that are available in the police administrative register LÖGE. Further investigation consists of looking into identity, travel route, country of origin, persecution, etc.

<sup>87</sup> As explained in Chapter 2 above, the code used for statelessness is that of XZ. Other possibly relevant codes like XX for foreigners, MS for unknown and K for unknown are no longer in use according to DI, yet have not been removed from the drop-down menu in the Alien Register. Interview with the DI, 15 August 2012.

<sup>88</sup> Interview with the DI, 15 August 2012.

<sup>89</sup> Telephone conversation with DI, 20 September 2012. According to other stakeholders, such as lawyers that have been appointed to represent asylum-seekers, this happens very seldom and usually only in case of lengthy procedures at the DI.

however mean the person is stateless. The registration as stateless in the Registry of Outsiders can therefore not be seen as a reliable assessment of statelessness.

If the applicant is recognized as a refugee, and consequently receives a residence permit that is valid for more than six months, he or she may register his or her legal domicile in Iceland through registration in the NPR. All relevant information is sent from the DI to RI, which then registers the person in the NPR. The assessment of nationality or statelessness carried out by the DI is however not binding on RI, which can make its own assessment of nationality or statelessness when registering the person. If the person is not granted asylum, the registration made by the DI in the Alien Register is the only relevant registration of nationality or lack thereof. Such registration does not lead to any rights or establishment of legal residence in Iceland.

### 3.3.2.2 QUESTIONS OF PROOF

For the National Police and the DI, the question of proof of an applicant's statelessness is evaluated in relation to the proof of the applicant's identity (as nationality is seen as being part of identity). An applicant who states that he or she is stateless bears the responsibility to establish his/her identity which includes the nationality or statelessness. Therefore the burden of proof is on the applicant.

At RI however, a person is registered as stateless by default, when he or she cannot show an identity document that qualifies as a proof of nationality. The same goes for persons who provide a copy of an alien's passport.<sup>90</sup>

### 3.3.2.3 ACCESS TO COURTS

A negative decision in regard to the granting of refugee status, subsidiary protection or a residence permits on humanitarian grounds may be appealed to the Ministry of the Interior, which has the authority to confirm or reverse a decision made by the DI. An appeal does not suspend the legal effect of a decision made by the DI, although one can apply for a deferred legal effect so that the DI decision is not enforced while the appeal takes place.<sup>91</sup>

After an appeal to the Ministry of the Interior, a final decision taken by the Ministry on appeal may itself be brought before Icelandic courts.<sup>92</sup> Very few court cases have been brought to court on registration of nationality and none in relation to registration of statelessness or other registration matters of concern in this research.

In relation to the registration itself, a person who is not satisfied with the registration made by RI, can appeal to the Ministry of Justice (now part of the Ministry of the Interior) which is eligible to review decisions made by the RI.<sup>93</sup> This is the only way to have a second look at the registration by RI.

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<sup>90</sup> RI's reply dated 14 August 2012, to a questionnaire prepared by the researcher in relation to mapping of statelessness in Iceland, dated 30 July 2012. Alien's passports are issued in accordance with article 48 of the Act on Foreigners.

<sup>91</sup> In accordance with Article 29 of the Administrative Procedure Act and Article 33 of the Act on Foreigners.

<sup>92</sup> In accordance with Article 60 of the Constitution of the Republic of Iceland, No 33 from 1944, <http://www.government.is/constitution>.

<sup>93</sup> Article 26 (1) the Administrative Procedure Act, No. 37 from 1993, <http://eng.forsaetisraduneyti.is/acts-of-law/nr/17>; e-mail from RI dated 16 September 2012.



## 3.4 Rights of applicants and recognized stateless persons

### 3.4.1 Rights of applicants during the statelessness determination procedure

In the absence of a specific statelessness determination procedure, the rights of stateless persons are attached to their legal status. Their rights will thus depend on their current (if any) residence permit, visa application or type of residence permit that has been applied for (work and residence permit, student permit, asylum, etc.) and the stage of the application.

A stateless person who applies for a visa will apply from another country. No rights as detailed in international conventions relevant to this research are linked to such an application. The same goes for an application for residence permits such as work permits or student permits. A person granted such a permit does not have access to social assistance. However, he or she is authorised to work. If the stateless person is seeking asylum in Iceland more rights are attached to his or her status as an asylum-seeker. The asylum-seeker will be entitled to accommodation, emergency health services, minimal allowance to cover the applicant's daily needs and children will have access to education. If a person is 'non-returnable' having exhausted the asylum procedure, he or she loses the asylum-seeking status and the rights attached to it. The Red Cross and the Ministry of Welfare try to solve the situation of 'non-returnable' persons on a case by case basis, although there is no legal basis for their action.

#### 3.4.1.1 DETENTION

Detention is based on Article 18 of the Act on Foreigners. According to Article 18(1), a foreigner may be denied entry into Iceland upon arrival and be detained for a period up to seven days following arrival, if any of the 10 subparagraphs of the article is applicable. The first subparagraph, Article 18(1)(a), states that a reason for such denial of entry on arrival can occur if the foreigner does not fulfil the requirements applicable with regard to passports, visas or manner of arrival.<sup>94</sup> If an asylum-seeker does not carry a passport it is possible that he or she is detained on the ground that his/her identity needs to be established. Stateless asylum-seekers may be affected (since nationality is considered to be part of identity).

Due to the geographical location of Iceland, it is almost impossible to reach Iceland without some kind of travel document, although stowaways are occasionally found in Iceland.<sup>95</sup> Stateless persons who present a fraudulent document at the border, i.e. a valid document which is issued to someone other than the holder or a falsified document, are liable under the Penal Code. Such persons are liable to be detained and may face charges for illegal entry that may entail a sentence of up to 30 days in prison upon conviction. This happened in the case of a stateless woman from Eritrea, who was sentenced to 30-days in prison for presenting a fraudulent passport at the border.<sup>96</sup>

The 1954 Convention does not contain a provision similar to that of Article 31 in the 1951 Convention, which exempts asylum-seekers and refugees from being penalised on account of their illegal entry or presence if they present themselves without delay and show good cause for the irregular entry. The practice described above would therefore not be a breach of the protection guaranteed to stateless persons unless the person has sought asylum and benefits from the protection set out in Article 31 of the 1951 Convention. In any event, stateless persons are likely to be affected disproportionately by this practice because they often do not possess travel documents or - self-evidently as they are stateless - nationality. Therefore, the current system is

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<sup>94</sup> See the other reasons for denial of entry on arrival in Article 18 (1) b-j of the Act on Foreigners.

<sup>95</sup> See recognized travel documents in annex 2 of Regulation on Foreigners, No. 53 from 2003.

<sup>96</sup> Reykjanes District Court ruling, dated 18 October 2010, case no. S-869/2010.

not in line with the UNHCR Handbook on Protection of Stateless Persons, which state that while establishing a person's statelessness, that person may not be detained for reasons relating to their statelessness, as this would go against the object and purpose of the 1954 Convention.<sup>97</sup> When acceding to the 1954 Convention, this situation must be addressed.

### 3.4.1.2 EXPULSION

Article 20 of the Act on Foreigners provides the reasons that can lead to expulsion from Iceland. A foreigner may, for example, be expelled from Iceland if the person has been living in the country illegally. Foreigners who have been legally staying in the country may be expelled for a variety of reasons that are further explained in Article 20 of the Act on Foreigners; such as serious or repeated violations of the Act on Foreigners or failure to leave Iceland after a decision has been made requiring a person to leave the country. This is especially problematic for 'non-returnable' persons, who have been denied asylum and are therefore obliged to leave Iceland.<sup>98</sup> These persons may receive on an *ad hoc* basis a temporary residence permit based on Article 12 (g) of the Act on Foreigners.

According to the UNHCR Handbook on Protection of Stateless Persons, a person should not be expelled while the outcome of the procedure is pending.<sup>99</sup> Not having a statelessness determination procedure keeps the legal limbo in place for 'non-returnable' persons. There is no way in which such a person may have his or her status as a stateless person determined or have his or her immigration position regularised permanently through the grant of permanent residence permit. This situation needs to be addressed when accession to the 1954 Convention takes place.

### 3.4.1.3 PUBLIC RELIEF

In Icelandic law, no reference is made to specific public relief granted to stateless persons or to persons during a procedure. Public relief for stateless persons will thus be granted according to the procedure under which the stateless person is applying. In the asylum procedure, asylum-seekers are entitled to a minimum allowance and basic services on the grounds of a contract between the Ministry of Welfare and Reykjanesbær Municipality, where the reception centre for asylum-seekers is located.<sup>100</sup>

The UNHCR Handbook on Protection of Stateless Persons explains that Article 23 in the 1954 Convention grants the right to public relief to stateless persons who are "lawfully staying" in a State party. This is another issue that will require attention.

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<sup>97</sup> UNHCR, Handbook on Protection of Stateless Persons, pp. 40-41 paras. 112-113.

<sup>98</sup> Foreigners can also be expelled if the person of concern has served a sentence or been sentenced abroad the last five years, on account of an act that would result in imprisonment for more than three months under Icelandic law or if the person has been sentenced more than once in the previous three years. A foreigner lawfully in the territory of Iceland can also be expelled if necessary due to national security or public interest. Article 20 of the Act on Foreigners.

<sup>99</sup> UNHCR, Handbook on Protection of Stateless Persons, p. 52 para. 145.

<sup>100</sup> Final Report of the Committee of the Ministry of the Interior in relation the status of Foreigners from outside the EEA, p. 59; available at: <http://www.innanrikisraduneyti.is/media/frettir-2012/Skyrsla-um-malefni-utlendinga-utan-EES.pdf>.

## 3.4.2 Rights of persons recognized as stateless

There are no special rights linked to being stateless in Iceland. The following section will analyse the international standards, to identify where the Icelandic legal system may need to be adjusted before acceding to the Conventions.

### 3.4.2.1 THE RIGHT OF RESIDENCE

The UNHCR Handbook on Protection of Stateless Persons states: “Although the 1954 Convention does not explicitly require States to grant a person determined to be stateless a right of residence, granting such permission would fulfil the object and purpose of the treaty.”<sup>101</sup> It continues: “Without a right to remain, the individual is at risk of continuing insecurity and prevented from enjoying the rights guaranteed by the 1954 Convention and international human rights law.”<sup>102</sup>

The Icelandic legislation does not provide for a specific residence permits for stateless persons based on the statelessness *per se*. The right of residence will only be guaranteed if a stateless person fulfils other criteria laid out in the Act on Foreigners, such as the definition of a refugee which triggers a right to residence based on the refugee determination procedure, or requirements for other residence permits, laid down in the Act on Foreigners.

A stateless person who is not granted the status of a refugee, subsidiary protection or a residence permit on humanitarian grounds would therefore be ordered to return to the country of his or her origin.<sup>103</sup> As explained above, stakeholders and the authorities have expressed their concern for stateless persons who are ‘non-returnable’. Stateless persons in such a situation are, on an ad hoc basis, issued a temporary residence permit based on Article 12 (g) of the Act on Foreigners. This type of residence permit, which is normally not granted for more than six months, does not guarantee the rights that would accompany permanent residence, and will not constitute a basis for a permanent residence permit.<sup>104</sup>

According to Article 26 of the 1954 Convention, stateless persons legally staying in the territory of a contracting state are entitled to freedom of movement, which includes the right to choose their place of residence and to move freely within the state’s territory, subject to regulations that can be applied to foreigners generally in the same circumstances.

According to the Constitution of Iceland, every person residing lawfully in the country shall be free to choose a residence and shall enjoy freedom of travel subject to any limitations laid down by law.<sup>105</sup> No specific protection of the freedom of movement of stateless persons is included in Icelandic legislation.

Article 31(1) of the 1954 Convention extends the obligation of contracting states not to expel a stateless person who is lawfully in their territory save on grounds of national security or public order. A stateless person is also entitled to submit evidence to clear him- or herself, to appeal a decision on expulsion that has been made in accordance with due process of law and to be represented before the competent authority or a person or persons specifically designated by the competent authority. In addition, a stateless person is entitled to a reasonable period to seek legal admission into another country. The state implementing the expulsion can apply internal measures as necessary during the period.<sup>106</sup> A stateless person is entitled to the protection of Article 31 once admitted or legalized, i.e. either having entered the country lawfully where

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<sup>101</sup> UNHCR, Handbook on Protection of Stateless Persons, p. 52 para. 147.

<sup>102</sup> *Ibid.*

<sup>103</sup> Stateless persons that fall under the Dublin Regulation will also be deported to the country where they first applied for asylum.

<sup>104</sup> Article 12 g (3-5) of the Act on Foreigners.

<sup>105</sup> Article 66 (4) of the Icelandic Constitution No. 33 from 1944.

<sup>106</sup> Article 31 (2-3) of the 1954 Convention.

permission to stay has not lapsed or having entered the country unlawfully but nevertheless, having been granted permission to stay.<sup>107</sup>

The Constitution of Iceland states that: “The rights of aliens to enter and reside in Iceland, and the reasons for which they may be expelled, shall be laid down by law.”<sup>108</sup> Although the Act on Foreigners includes provisions on expulsion, no reference is made to protection from expulsion for stateless persons specifically. Therefore, stateless persons residing in Iceland require procedural protection against expulsion. Moreover, the Icelandic legal system should contain measures for refused asylum-seekers recognized to be stateless to obtain a residence permit based on their status. This would help in solving the situation of ‘non-returnable’ persons who are stateless.

### 3.4.2.2 THE RIGHT TO WORK

Chapter III of the 1954 Convention on ‘Gainful Employment’ provides for the right of stateless persons to wage-earning employment, self-employment and liberal professions.<sup>109</sup> These articles refer to stateless persons ‘lawfully in the territory’ or ‘lawfully staying in the territory’ and places the obligation of a contracting state to provide a recognized stateless person with treatment that is as favourable as possible and in any event not less favourable than that accorded to aliens generally in the same circumstances. As soon as the residence of a stateless person has been established in the country and the person has been granted access to the labour market, the stateless person is eligible for the same rights as a citizen when it comes to labour legislation and social security.<sup>110</sup> Although the Convention does not define the term ‘wage-earning employment’, it should be interpreted in the broadest sense of the term.<sup>111</sup>

No provision can be found in the Icelandic legal system expressly conferring the right to work on stateless persons. Since there is no determination procedure of statelessness but solely the registration by RI, which takes place when the person concerned has been granted some kind of residence permit valid for more than six months, the right to work for a stateless person will depend on the type of residence permit granted to the person. Generally, most residence permits guarantee a right to work although exceptions can be found, such as residence permits for students.<sup>112</sup>

As the research did not include participatory assessments with stateless persons, and stakeholders have little experience with stateless persons, it remains unclear whether the current legal system is problematic for stateless persons. It appears that there is no infringement on the right to work for stateless persons residing legally in Iceland, yet if it becomes clear that stateless persons do experience difficulties, the right to work for stateless persons must be made explicit in law.

### 3.4.2.3 THE RIGHT TO PUBLIC RELIEF

Article 23 of the 1954 Convention states that: “The Contracting States shall accord to stateless persons lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.” It is intertwined with the right to social security spelled out in Article 24, which also refers to stateless persons lawfully staying in the territory of the contracting state.<sup>113</sup>

Icelandic legislation does not contain any provision specifically granting public relief to stateless persons. Those who have a residence permit in Iceland valid for at least six months are able to register their legal

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<sup>107</sup> Robinson, N., *Convention Relating to the Status of Stateless Persons, Its History and Interpretation, A Commentary* (1955), p 96-97.

<sup>108</sup> Article 66 (2) of the Icelandic Constitution No. 33 from 1944.

<sup>109</sup> Article 17, 18 and 19 of the 1954 Convention.

<sup>110</sup> Waas, L.E. van, *Nationality Matters*, p. 312.

<sup>111</sup> Robinson, N., *Convention Relating to the Status of Stateless Persons, Its History and Interpretation, A Commentary* (1955), p 62.

<sup>112</sup> See further Foreign Nationals’ Right to Work Act, No 97 from 2002, <http://eng.velferdarraduneyti.is/acts-of-Parliament/nr/1491>.

<sup>113</sup> Waas, L.E. van, *Nationality Matters*, pp. 325-327.

domicile and are - upon registration in the NPR - entitled to various public services such as financial aid from their municipality (support grant from a local authority). This applies to all persons regardless of nationality, meaning that if an Icelandic national, who has lived abroad, moves his/her legal domicile to Iceland, the person will not be covered by the health insurance system until the six months have passed. The same requirements apply to all foreigners including stateless persons in Iceland.

The Municipal Service Centre for the area of *Miðborg* and *Hlíðar* (*þjónustumiðstöð Miðborgar og Hlíðar*) and the Ministry of Welfare recall a few cases of stateless persons being treated as so-called 'foreigners in need', i.e. cases in which a foreigner without legal domicile in Iceland needs social services. Under regulation 1185/2011, which provides for the relationship between the Municipal Service Centres and the Ministry of Welfare when it comes to social services for foreigners from outside the EEA and without a legal domicile in Iceland, certain cases can be solved and social services granted to unregistered stateless persons.<sup>114</sup> Nationality or statelessness has however not been registered in these cases and information on the number of stateless persons within this population is therefore not known.

It appears that Icelandic law meets the standards under Articles 23 and 24 of the 1954 Convention. However, in addition, there needs to be an assessment as to how the standards are experienced in practice by stateless persons residing in Iceland.

The situation becomes problematic for persons who are in the situation of being 'non-returnable' as there is no determination procedure of statelessness nor a status linked to being stateless in Iceland. Public relief for stateless persons, although not necessarily residing legally on the state's territory, should be addressed in order to take these people out of their legal limbo and grant them access to public relief.

#### 3.4.2.4 IDENTIFICATION AND TRAVEL DOCUMENTS

Article 27 of the 1954 Convention spells out the responsibility for the contracting states to issue identity papers to any stateless person in their territory without valid identity documents. Identity papers should be granted to all stateless persons physically present in the territory of a given state and its purpose is 'internal use', i.e. to certify the identity of a stateless person.<sup>115</sup>

Icelandic legislation does not have any provision *specifically* stating the right or duty of stateless persons to hold identity papers and is in this respect not in line with the 1954 Convention.

For persons seeking asylum, an identity card must be issued stating that the holder of the card is an asylum-seeker.<sup>116</sup> Persons who apply for other types of residence permits will not be issued an identity card stating that they have applied for a residence permit. The so-called 'residence-card' will only be issued when a person has been granted a residence permit. The residence card is classified as an identity paper, valid in the Icelandic territory. Among other things, the card states the name of the holder, nationality or statelessness in the case of persons who have been determined stateless by RI and the expiry date of the residence permit. As explained, no separate determination procedure for stateless persons is in place in Iceland and consequently stateless persons will not be issued a residence permit and identity document due to the person's statelessness. This is not in line with the requirement to give effect to the object and purpose of the 1954 Convention.

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<sup>114</sup> Interview with the Municipal Service Center for the Miðborg and Hlíðar (City Center and surroundings), 16 August 2012. Interview with the Ministry of Welfare, 16 August 2012. The regulation can be found here: <http://stjornartidindi.is/Advert.aspx?ID=da6c01a5-5b14-4f95-aaef-c8316f467df2>.

<sup>115</sup> It must be noted that one interpretation of this rule argues that if identity papers are not generally required or issued, there is no need to issue identity papers for stateless persons since the purpose is not to characterize stateless persons specifically. Robinson, N., *Convention Relating to the Status of Stateless Persons, Its History and Interpretation, A Commentary* (1955), p 79.

<sup>116</sup> Section 92 of Regulation on Foreigners, No. 53 from 2003.

Identity documents are for internal use, travel documents for external use. The standards for the issuance of travel documents for stateless persons are spelled out in Article 28 of the 1954 Convention. The obligation to issue travel documents is granted to stateless persons “lawfully staying in [the] territory”.

As already explained, due to their status, stateless persons will not be eligible for a travel document, but will instead be given specific residence permits that confer an entitlement to a passport for foreigners (an ‘aliens passport’). Recognized refugees are entitled to travel documents. As regards stateless persons, the existing provision is not entirely in line with the requirement of the 1954 Convention. The DI is responsible for the issuance of travel documents for foreigners in accordance with Article 48 of the Act on Foreigners which states that:

*A refugee who resides or is allowed to reside lawfully in Iceland, shall, upon application be provided with a travel document for refugees to travel abroad, provided no special reasons warrant otherwise. If a refugee has a travel document issued by another state he/she may only be issued with a document if he/she has been granted asylum or a permanent residence permit in Iceland, or if the issuance of a travel document for refugees is obligatory under an international agreement.*

According to the DI, their role is to issue passports to recognized refugees who have been granted a residence permit on the grounds of their refugee status.<sup>117</sup> The same goes for stateless refugees, although not on the ground of being stateless, but on the grounds of being granted asylum.

For the purpose of this study, the DI and RI provided statistics on the issuance of travel documents for stateless refugees. According to the statistics, 44.5 % of all travel documents for refugees in the years 2008-2011 were issued to stateless persons. Although the percentage might seem high, one should note that passports to foreigners are issued once the registration by RI in the NPR has taken place. In that register, all persons who are not able to present passport to establish their identity, are registered as stateless.

**Table 4:** Travel documents issued to foreigners and stateless persons (2008-2011)

	Total passports issued for foreigners	Passports issued to stateless persons
<b>2008</b>	37	0
<b>2009</b>	29	26
<b>2010</b>	7	7
<b>2011</b>	37	16
<b>Total</b>	<b>110</b>	<b>49</b>

### 3.4.2.5 OTHER RIGHTS GUARANTEED

There are other national legal instruments that specifically refer to rights to which stateless persons are entitled. One example is the Copyright Act No. 73 from 1972, which states that its provisions on copyright shall apply to works by stateless persons and refugees who have their habitual residence in Iceland and that a stateless art performer shall have exclusive right to produce copies of his or her performance and to all distribution of such to the public.<sup>118</sup> Article 14 of the 1954 Convention concerning the protection of artistic rights and industrial property is partly incorporated in Icelandic legislation through this law. Other rights guaranteed in the 1954 Convention to stateless persons are not specifically referred to in Icelandic legislation,

<sup>117</sup> See further Regulation on Foreigners, No 53 from 2003, available at: <http://www.reglugerd.is/interpro/dkm>.

<sup>118</sup> Article 60 (1) 3 and 61 (1) 2 of the Copyright Act No. 73 from 1972, <http://www.wipo.int/wipolex/en/text.jsp>.

although rights which stateless persons are entitled to according to the Convention are generally guaranteed for persons holding a residence permit in Iceland.<sup>119</sup>

The Act on the Execution of Sentences No. 49 from 2005 specifically states the right of stateless persons in prison to contact representatives of Icelandic or international organizations that work to defend stateless person's rights.<sup>120</sup> This provision applies for example to stateless persons that are detained or sentenced to prison for presenting wrong or falsified documents at the borders.

Amendments made to the Act on Foreigners in 2010,<sup>121</sup> emphasize that stateless persons can qualify for either refugee status or subsidiary protection (depending on whether the applicant meets the criteria for being granted the respective protection status) and<sup>122</sup> provide for an accelerated procedure, which may also be applied to stateless asylum-seekers.<sup>123</sup>

Other legal acts specifically provide that stateless persons must fulfil particular duties. One example of this is the Municipalities' Revenue Bases Act, No. 4 from 1995, which stipulates the duty of foreign nationals or stateless persons, who have been granted residence or immigration permits in Iceland for a specified period of time, to remit their municipal income tax at the same time as withholding of income tax is to be paid.<sup>124</sup> A stateless person's duty to remit income tax is further stipulated in Article 112 (7) of Act No. 90 from 2003 on Income Tax.<sup>125</sup>

### 3.4.2.5 CONCLUSIONS

There is no specific determination procedure for statelessness in place in Iceland, and consequently no specific status granted to stateless persons or to persons who would like to have their status as stateless determined. However, within the existing asylum procedure operated by the DI and registration procedure operated by the RI, an asylum-seeker or person granted refugee status, subsidiary protection or humanitarian status may be identified and registered as stateless. Some of the rights set out in the 1954 Convention are in practice provided to persons identified and registered as stateless within these procedures even though this is not being done with the specific aim of ensuring compliance with the 1954 Convention and related international standards pertaining to the rights of stateless persons. Instead, for persons registered as stateless, the rights granted are rather linked to their residence status or to their asylum application.

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<sup>119</sup> Access to courts as provided in Article 16 of the 1954 Convention is a good example since every person staying in Iceland has the right to access to court, guaranteed in Article 70 of the Icelandic constitution. Another example is the right of asylum-seekers to work, which stateless asylum-seekers would be entitled to. In practice, asylum-seekers are sometimes granted temporary resident permit according to Article 12 g of the Act on Foreigners, which allows them to be granted a temporary working permit according to Article 11 (1) a of Foreign Nationals' Right to Work Act, No 97 from 2002, available at: <http://eng.velferdarraduneyti.is/acts-of-Parliament/nr/1491>.

<sup>120</sup> Article 40 (2) of Act on Execution of Sentences No 49 from 2005, <http://eng.innanrikisraduneyti.is/laws-and-regulations/english/penal-code-and-punishment/nr/1351>.

<sup>121</sup> Amendments available at: <http://www.althingi.is/altext/138/s/0894.html>.

<sup>122</sup> Articles 44 (1-2) and 44 a (2) c of the Act on Foreigners No 96 from 2002, available at: <http://eng.innanrikisraduneyti.is/laws-and-regulations/nr/105>.

<sup>123</sup> Article 50(d) Act on Foreigners.

<sup>124</sup> Article 27 (6) of the Act on Municipalities' Revenue Bases No. 4 from 1995. The English version has not been updated after recent legal amendments, but the provision relevant for this research has not been subject to change, as far as content is concerned, and can thus be found in Article 27 (6), available at: <http://goo.gl/b5J5tN>.

<sup>125</sup> Art 112 (7) of the Income Tax Act, available at: [http://www.ministryoffinance.is/media/log-reglur/Act\\_no\\_90\\_2003.pdf](http://www.ministryoffinance.is/media/log-reglur/Act_no_90_2003.pdf).

## 3.5 Conclusions and recommendations

Iceland has not yet acceded to the 1954 Convention, and has neither incorporated the Convention's definition of a stateless person nor put in place a procedure for the determination of statelessness. Instead, the identification and registration of statelessness is only a part of other procedures, where the possible statelessness of an asylum-seeker or refugees is established by the DI; and in case of a more permanent stay in Iceland, the status is determined by the RI.

In view of the findings set out in this chapter, it is recommended that Iceland accedes to the 1954 Convention and translates it into national law. This includes implementation of the definition of a stateless person, set out in Article 1 of the 1954 Convention, and its application in line with the guidance on the criteria for determining statelessness, contained in the UNHCR Handbook on Protection of Stateless Persons.<sup>126</sup> It is further recommended that Iceland puts in place a procedure for the determination of statelessness, including of 'non-returnable persons' who may be stateless. To ensure an efficient use of human and financial resources, including the competence existing within the DI's asylum procedure, it is recommended to consider expanding the asylum procedure to also include a mechanism for the determination of statelessness. The UNHCR Handbook on Protection of Stateless Persons contain useful guidance on how a statelessness determination procedure, which meets the requirements in the 1954 Convention while being cost and human-resource efficient, could be established within an existing asylum procedure.<sup>127</sup> On a related note, a mechanism needs to be put in place for the identification of stateless persons at borders (not seeking asylum), who are at risk of being arrested due to lack of documentation. This also requires appropriate training of police and border officers and legal representatives.

In addition, stateless persons in Iceland should be guaranteed the rights to which they are entitled under the 1954 Convention, as elaborated in the UNHCR Handbook on Protection of Stateless Persons,<sup>128</sup> and in relevant international human rights conventions.

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<sup>126</sup> UNHCR, Handbook on Protection of Stateless Persons, pp. 9-13 paras. 13-24.

<sup>127</sup> *Ibid.*, pp. 25-28 paras.57-67.

<sup>128</sup> UNHCR, Handbook on Protection of Stateless Persons, pp. 46-51 paras. 129-143.



# 4. Reduction and prevention of statelessness

## 4.1 Introduction

The ultimate solution for stateless persons is the acquisition of a nationality. In addition, the occurrence of statelessness should be limited as much as possible by preventing new cases from occurring. The 1961 Convention provides safeguards for State Parties to implement through their nationality laws in order to prevent people from becoming stateless. These safeguards are complemented by other international and regional instruments containing rights to a nationality and corresponding duties of States, like the 1997 European Convention on Nationality; the 2006 Convention on the Avoidance of Statelessness in Relation to State Succession; the CEDAW; CRC and the ICCPR.

Statelessness should be prevented at birth. Articles 1 to 4 of the 1961 Convention provide safeguards that prevent children from becoming stateless at birth. These include obligations towards children born in the State's territory who would otherwise be stateless, as well as towards children born abroad to a person who is a national of the Contracting State who would otherwise be stateless.<sup>129</sup> States must also ensure that foundlings and persons born on a ship or aircraft acquire a nationality (Articles 2 and 3 of the 1961 Convention). These safeguards are in line with Article 7 of the CRC, which grants the right to acquire a nationality.

The 1961 Convention further seeks to prevent statelessness upon a change in civil status. This is laid down in Article 5 of the 1961 Convention and is complemented by Article 9 of CEDAW which grants women equal rights with men to acquire, change or retain nationality, in particular in the context of marriage. Safeguards against statelessness in case of renunciation, deprivation or loss of nationality are described in Articles 7, 8 and 9 of the 1961 Convention.

Reduction of statelessness is possible through naturalization or other measures through which nationality may be acquired. In line with Article 32 of the 1954 Convention, states must 'make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings'.

In the following, these measures to prevent and reduce statelessness will be discussed in more detail, where the national measures will be assessed against the relevant international standards. In this way, it can be concluded to what extent the national legal system is in line with the safeguards for prevention and reduction as set by the 1961 Convention and other instruments.

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<sup>129</sup> As included in paragraph 4 of Article 1 and Article 4 of the 1961 Convention.

## 4.2 National legal framework

Iceland's current international obligations in relation to stateless persons is based on more general human rights instruments, such as Article 15(1) of the UDHR, which declares everyone's right to a nationality. As regards children, the right to a nationality is further spelled out in Article 7 (1) of the CRC. The CRC also stipulates the importance of registration after birth and the responsibilities of states to implement these rights into domestic law, especially emphasizing the importance of the provisions where a child would otherwise be stateless.<sup>130</sup> In addition, the CRC lays relevant emphasis on the right of the child to preserve his or her identity, including nationality and in the case of a child being deprived of some or all of the identity elements, states bear an obligation to provide appropriate assistance and protection to re-establish the child's identity speedily.<sup>131</sup>

In addition, Article 24(3) of the ICCPR to which Iceland is also a party, states that every child has the right to acquire a nationality. The ICERD stipulates the right to a nationality regardless of race, colour, national or ethnic origin in Article 5(1)(d)(iii).<sup>132</sup> Iceland has declared that it recognized the competence of the Committee on the Elimination of Racial Discrimination to "receive and consider communications from individuals or groups of individuals within the jurisdiction of Iceland claiming to be victims of a violation by Iceland of any of the rights set forth in the Convention."<sup>133</sup>

CEDAW further obliges the Icelandic state to "grant women equal rights with men to acquire, change or retain their nationality [...]" Contracting states are also obliged to "ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband." In addition, the Icelandic state is obliged to "grant women equal rights with men with respect to the nationality of their children."<sup>134</sup>

Other international conventions that are of relevance to this research and to which Iceland is a State Party are the Convention on the Nationality of Married Women, the Optional Protocol to the Vienna Convention on Consular Relations Concerning Acquisition of Nationality and the Optional Protocol to the Vienna Convention on Diplomatic Relations Concerning Acquisition of Nationality. In relation to Iceland's obligations at the regional level, its ratification of the European Convention on Nationality is of a fundamental importance when it comes to Iceland's obligations relating to the prevention and reduction of statelessness.

The Constitution of Iceland provides that "An alien can only be granted Icelandic citizenship according to law."<sup>135</sup> In accordance with this constitutional requirement, the Icelandic legal framework on nationality is to be found in the Nationality Act. The Act spells out provisions on general modes of acquisition of citizenship, which can be acquired by statute of law or administrative decision.

As of 1 February 2014, the DI receives and assesses all applications for Icelandic citizenship in accordance with Act No. 145/2013 amending the Icelandic Nationality Act No. 100/1952.<sup>136</sup> In case of applications that are intended to go to the Parliament, the DI shall, before an application is sent to the Parliament, decide whether to recommend to the Parliament if the applicant shall be granted Icelandic citizenship. According to the DI,

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<sup>130</sup> Article 7 (2) of the CRC.

<sup>131</sup> Article 8 (1) and 8 (2) of the CRC.

<sup>132</sup> See also article 1 (3) of the CERD. The Convention entered into force in Iceland on 4 January 1969.

<sup>133</sup> UN General Assembly, *International Convention on the Elimination of All Forms of Racial Discrimination*, 21 December 1965, United Nations, Treaty Series, vol. 660, p. 195, Article 14(1), available at: <http://www.refworld.org/docid/3ae6b3940.html>. Iceland has, however, made a reservation to Article 14 and the Committee's competence to do so "unless the Committee has ascertained that the same matter is not being examined or has not been examined under another procedure of international investigation or settlement." See full text of reservation at: <http://goo.gl/AmGfU3>.

<sup>134</sup> Article 9 of the CEDAW. The CEDAW entered into force in Iceland on 3 September 1981.

<sup>135</sup> Article 66 (1) of the Icelandic Constitution.

<sup>136</sup> See <http://www.althingi.is/altext/stjt/2013.145.html>.

their assessment is solely based on the requirements provided for in the Nationality Act; i.e. if the applicant fulfils the conditions for Icelandic citizenship, the DI recommends that the applicant shall receive Icelandic citizenship. In case of all other decisions to grant Icelandic citizenship, the decision will be taken by the DI.

According to the explanatory notes,<sup>137</sup> the amendments were made to respond to the lack of an appeal mechanism in citizenship cases. Before the amendments, an applicant would only receive a decision by the Ministry of the Interior. In case an applicant received a negative decision and did not acquire Icelandic citizenship, the only possibility to have the decision reassessed was to take the negative decision to the Icelandic courts. After the aforementioned amendments entered into force, an applicant who receives a negative decision by the DI can choose if he or she prefers to appeal the decision made by the DI straight to the courts, or to the Ministry of Interior. In case he or she appeals to the Ministry of the Interior and it upholds the negative decision, the applicant will have the possibility to appeal the rejection to the court.

The DI has, since it assumed responsibility for the majority of matters relating to the Icelandic nationality, changed various requirements relating to which documents should be filed with applications. This is notably most relevant to children born to a foreign mother who is not married to an Icelandic father of the child. These changes in practice do not appear to be directly based on the amendments made to the Nationality Act, pursuant to Act No. 145/2013, nor on any recent changes to regulations elaborating the requirements in the Nationality Act.

Although Iceland has not yet acceded to the 1961 Convention, the government has confirmed its intention to do so, as explained above. Nevertheless, the Nationality Act has already been amended extensively in order to adapt to international and regional obligations. Such amendment includes, for example, provisions to reduce statelessness where reference is made to the 1961 Convention in the *travaux préparatoires*.<sup>138</sup>

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<sup>137</sup> See <http://www.althingi.is/altext/143/s/0192.html>.

<sup>138</sup> These amendments did often reflect the development of the Danish Nationality Act as can be seen from the explanation with proposed legal amendments of the Icelandic Nationality Act No. 49 from 1982, pgs 3-5, <http://www.althingi.is/altext/104/s/pdf/0255.pdf>.

## 4.3 Acquisition and loss of nationality under the national framework and the compatibility with international standards

### 4.3.1 Avoidance of statelessness at birth

#### 4.3.1.1 BIRTH ON THE STATE'S TERRITORY

Article 1(1) of the 1961 Convention provides that a contracting state shall grant its nationality to a person born in its territory who would otherwise be stateless. This standard is further strengthened by Article 7 of the CRC and Article 24 of the ICCPR, the latter being specified in the Human Rights Committee's General Comment No. 17, which provides that "States are required to adopt every appropriate measure, both internally and in cooperation with other States, to ensure that every child has a nationality when he is born"<sup>139</sup> The European Convention on Nationality further states that each State Party shall provide in its internal law, that its nationality may be acquired by children born on its territory and who do not acquire any other nationality at birth.<sup>140</sup>

According to the Nationality Act, the principal rule on acquisition of nationality at birth is *jus sanguinis*. The Nationality Act thus states that a child will become an Icelandic citizen at birth if: a) the mother of the child is Icelandic; b) if the father of the child is Icelandic and married to the mother<sup>141</sup> or; c) the mother of the child born out of wedlock is a foreign national but the paternity has been established in accordance with the Children's Act and the father is an Icelandic citizen.<sup>142</sup> These provisions also apply for children conceived by artificial insemination, regardless of the parents' gender.<sup>143</sup>

Various provisions in the Nationality Act also stipulate a birth right to acquire Icelandic nationality after birth (as discussed in section 4.3.4.1 on Naturalization below).

Stateless children born in Iceland to asylum seeking parents are not entitled to Icelandic citizenship by birth. However, the Nationality Act now includes a provision specifically stating the right of stateless children born in Iceland to acquire Icelandic citizenship by application as stated in Article 10 of the Nationality Act. The requirements are that the child: 1) has not acquired citizenship by birth; 2) has not acquired citizenship since birth nor has the right to acquire a citizenship when an application is submitted and; 3) has had domicile in Iceland and has had continuous residence in Iceland since birth for at least three years. While these provisions are mostly in line with the already described standards spelled out in the European Convention on Nationality,<sup>144</sup> the requirement of not having the right to acquire any other nationality is not a condition prescribed by the 1961 Convention nor by the European Convention on Nationality. However, stateless

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<sup>139</sup> UN Human Rights Committee (HRC), *CCPR General Comment No. 17: Article 24 (Rights of the Child)*, 7 April 1989, paragraph 8, available at: <http://www.refworld.org/docid/45139b464.html>.

<sup>140</sup> Article 6 of the 1997 European Convention on Nationality. The article further stipulates that states can grant nationality "at birth ex lege or subsequently, to children who remained stateless, upon an application being lodged with the appropriate authority, by or on behalf of the child concerned, in the manner prescribed by the internal law of the State Party. Such an application may be made subject to the lawful and habitual residence on its territory for a period not exceeding five years immediately preceding the lodging of the application."

<sup>141</sup> Article 1 (1) 1-2. In the latter case, the child will not acquire Icelandic nationality if the parents had obtained a judicial separation at the time when the child was conceived.

<sup>142</sup> Article 2 (1) of the Act on Icelandic Nationality. See further the Children's Act, No. 76/2003.

<sup>143</sup> Article 1 (2) of the Act on Icelandic Nationality. The requirements for the parents of a child conceived with artificial insemination are further laid out in Article 6 (2) of the Children's Act, No. 76/2003.

<sup>144</sup> Article 2 (b) of the 1997 European Convention on Nationality.

children born in Iceland to asylum seeking parents will not be entitled to Icelandic citizenship based on this provision, unless the parents and the child are granted asylum. This situation is due to the fact that persons living in Iceland are only able to register their domicile after having been granted a residence permit that is valid for more than six months as explained above in chapter 2. Asylum-seekers who have not been granted asylum are therefore not eligible to register their domicile according to the Domicile Act, No 21 from 1990. A child born to asylum seeking parents would consequently not fulfill the requirements stipulated in Article 10, (unless and until granted asylum).

In the UNHCR Guidelines on Statelessness No. 4 on Ensuring Every Child's Right to Acquire a Nationality, the special situation of refugee children is highlighted:

*In such circumstances where the child of a refugee would otherwise be stateless, the safeguard in Article 1 will apply. Depending on the approach adopted by the contracting state of birth, the child either acquires the nationality of the State automatically at birth or at a later time through an application procedure.<sup>145</sup>*

Article 10 provides the available remedy to acquire Icelandic citizenship for children who have been granted a residence permit that is valid for more than six months. The child will nevertheless be stateless for at least three years, until the parents of the child are able to apply for citizenship on behalf of their child. If the asylum seeking parent is not granted refugee status, the parent along with the child is likely to be returned to a home country, despite the fact that the stateless child is born in Iceland. In case of no receiving country, the child will be left in the same legal limbo as the parents.

If the parents do not apply on behalf of a child for citizenship in accordance with Article 10, and the child is still stateless at the age of 18 years, there is a possibility to apply for Icelandic citizenship until he or she reaches the age of 20 years. The requirements are that the applicant has had domicile and continuous residency in Iceland since the age of 13 years.<sup>146</sup> This provision of the Nationality Act is not in line with the international standards spelled out in the 1961 Convention, which require the contracting state to grant its nationality to stateless persons born in its territory upon an application and to allow for the application to be lodged until at least the age of 21 years.<sup>147</sup> Although the Convention allows the contracting states to apply further conditions, Article 3 of the Nationality Act should be amended in respect of the age limit. The Act needs to be, at least, in line with Article 1(2)(a) of the 1961 Convention, stating that the period of time in which one can apply should not end earlier than at the age of 21 years.

The requirements spelled out in Articles 10 and 13 are not completely in line with the 1961 Convention as the Convention only requires habitual residence. Iceland should therefore amend the Nationality Act to provide further protection for stateless persons in this regard.

#### **4.3.1.2 BIRTH OUTSIDE THE STATE'S TERRITORY**

Article 4 of the 1961 Convention prescribes the obligation of a contracting state to grant nationality to a child born to a national of that state but outside of the territory of the state, who would otherwise be stateless.

As explained in the previous section, Article 1(1) and (2) and Article 2(1) of the Nationality Act stipulate the right to Icelandic citizenship based on the *jus sanguinis*-principle through the mother or the father (if he is married to the mother or out of wedlock when his paternity is confirmed). These rules also apply if the child is born outside Icelandic territory.

According to Article 2(2) of the Nationality Act, if an unmarried woman who is a foreign national has a child outside of the territory of Iceland, but with an Icelandic father, the father may apply for the child to receive

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<sup>145</sup> UNHCR Guidelines No. 4, para. 27. See also UNHCR, *Dakar Summary Conclusions*, para. 18 and 23.

<sup>146</sup> Article 3 of the Nationality Act.

<sup>147</sup> Article 1(2) a of the 1961 Convention.

Icelandic citizenship. This must be done before the child turns 18 years and if the child is older than 12 years, the child must be consulted by the father. Moreover, the father must submit 'satisfactory evidence' on the child and his paternity along with the application, which in turn is decided upon by the Ministry of the Interior. Furthermore, if the parents of the child marry before the child reaches the age of 18, the child will acquire Icelandic citizenship, provided that the child is not married at the time.<sup>148</sup> Just like the birth right to Icelandic nationality, this provision also applies to children conceived by artificial insemination, regardless of the gender of the parents.<sup>149</sup>

No further explanation is found in the legislation in relation to 'satisfactory evidence' and no further regulations exist on the matter. Information on the homepage of the DI indicates that an application for naturalization has to be filled out and submitted, as the general naturalization procedure spelled out in Articles 8 and 9 Nationality Act applies. Together with the form, the applicant shall submit various documents, although certain exemptions are made from requirements applying to applicants older than 18 years. For children born outside wedlock to a foreign mother and an Icelandic father, the DI requests birth certificate of the child and the father, copy of the child's and the father's passport, documents proving the child's domicile, criminal record if the child was older than 15 years when the child moved to Iceland, documents proving that the child is enrolled in the Icelandic school system, documents showing that the parent(s) have not received financial sustenance from the social services in the municipality where the parent(s) reside and documents proving custody and/or consent of the guardian if both parents have custody. In addition, the consent of a child who is older than 12 years old needs to be filed with the application. All documents need to be translated if they are not filed in Icelandic, English or in any of the Nordic languages.<sup>150</sup>

Also in the context of birth outside the state's territory, the age limit of 20 years for submitting a nationality application is not in line with the 1961 Convention.

As regards adoption, Article 2a of the Nationality Act states that a foreign child who is adopted by an Icelandic national with the permission of the Icelandic authorities shall acquire Icelandic citizenship on adoption if the child is under the age of 12 years. The same article stipulates that if the adoption is based on a foreign decision, additional requirements apply. In the latter case, the decision needs to be recognized by the Icelandic authorities, citizenship for the child needs to be requested by the adopter and the DI needs to approve the granting of the Icelandic citizenship.

Adopted children by foreign decision from 12 years of age and onwards apply to the DI and along with the application, an applicant would need to file documents proving the adoption, a declaration of adoption based on the Hague Convention, the birth certificate of the child, a birth certificate of the Icelandic parent, and a copy of the child's passport and the parents' passports. Translations need to be filed if the documents are not filed in either English or any of the Nordic languages.<sup>151</sup>

### 4.3.1.3 FOUNDLINGS

Article 2 of the 1961 Convention states that "A foundling found in the territory of a Contracting State shall, in the absence of proof to the contrary, be considered to have been born within that territory of parents possessing the nationality of that State." It has been argued that this rule has become an international customary norm and it has been reiterated in other international and regional conventions than the 1961 Convention, such as the European Convention on Nationality.<sup>152</sup> A similar provision can be found in Article

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<sup>148</sup> Article 2(4) of the Nationality Act.

<sup>149</sup> The requirements for the parents conceived with artificial insemination is further laid out in Article 6 (2) of the Children's Act, No 76/2003.

<sup>150</sup> See [http://utl.is/index.php/rikisborgararettur-fyrir-barn-islensks-rikisborgara#Yngri\\_en\\_18](http://utl.is/index.php/rikisborgararettur-fyrir-barn-islensks-rikisborgara#Yngri_en_18).

<sup>151</sup> See <http://utl.is/index.php/aettleidhing>.

<sup>152</sup> Waas, L.E. van., *Nationality Matters*, pp. 70-71 and 90.

1(3) of the Nationality Act determining that foundlings hold Icelandic nationality until proven otherwise.<sup>153</sup> Although the Ministry of the Interior did not recall any cases of foundlings in Iceland, it stated that the most likely interpretation of the article would be that the provision would only cover new-borns, which is not in line with the UNHCR Guidelines on Statelessness No. 4, which refer to 'young children'.<sup>154</sup> Following the amendments from February 2014, the DI would now interpret and apply the provision if a foundling would be found in Iceland.

It is strongly advised that Article 1(3) of the Nationality Act will be interpreted in light of the guidance contained in the UNHCR Guidelines.

#### **4.3.1.4 BIRTH ON A SHIP OR AIRCRAFT**

Article 3 of the 1961 Convention provides that "a birth on a ship or in an aircraft shall be deemed to have taken place in the territory of the State whose flag the ship flies or in the territory of the State in which the aircraft is registered, as the case may be". According to the UNHCR Guidelines on Statelessness No. 4, the provision should be interpreted as referring to all vessels registered in the state.<sup>155</sup> Additionally, it is highlighted that the provision applies to ships that are within the territorial water or a harbour of another state as well to an aircraft at an airport of another state.<sup>156</sup>

### **4.3.2 Avoidance of statelessness upon change in civil status**

Icelandic legislation does not contain any rules on change of nationality upon marriage. Only in cases where a non-Icelandic mother marries an Icelandic father, will the child acquire Icelandic citizenship, but it is required that the child is younger than 18 years of age and not married at the time.<sup>157</sup>

### **4.3.3 Avoidance of statelessness in the context of renunciation, loss or deprivation of nationality**

The 1961 Convention contains various provisions in relation to loss, renunciation and deprivation of nationality. In Icelandic law, the Constitution contains provisions on renunciation and deprivation of nationality.

The Constitution of Iceland states in Article 66(1) that a "Loss of citizenship may [...] be provided for by law, in the event a person accepts citizenship in another State".<sup>158</sup> In line with this constitutional requirement, the Nationality Act lays out the conditions for the renunciation and loss of Icelandic citizenship in Articles 12 and 13.

Renunciation of Icelandic citizenship cannot be denied if a person, who is a foreign national and has domicile abroad wishes to be released from an Icelandic citizenship, as that person already holds another citizenship and is not in danger of becoming stateless.<sup>159</sup> Furthermore, renunciation of an Icelandic citizenship may occur if the person who seeks to be released from the Icelandic citizenship is resident abroad and wishes to become a foreign national. The person wishing to be released will, in that case, need to demonstrate that

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<sup>153</sup> Article 1 (3) of the Act on Icelandic Nationality. The legal amendments are laid out in Act No. 62 from 1998, <http://www.althingi.is/altext/122/s/0391.html>.

<sup>154</sup> UNHCR Guidelines No 4, para. 58 (basing this interpretation on the object and purpose of the 1961 Convention).

<sup>155</sup> Ibid., para. 62.

<sup>156</sup> Ibid., para. 63. See also UNHCR, *Dakar Summary Conclusions*, para. 48-49.

<sup>157</sup> Article 2(4) of the Nationality Act.

<sup>158</sup> Constitution of the Republic of Iceland No. 33 from 1944.

<sup>159</sup> Article 13 (2) of the Nationality Act.

another citizenship has already been granted or will be granted within a certain time, to prevent the person from becoming stateless.<sup>160</sup> However, renunciation will not take place in cases where the person who wishes to be released from Icelandic citizenship, is resident in Iceland. An exception can be made to this provision if special reasons lie behind the renunciation.<sup>161</sup>

If a person requests renunciation of Icelandic citizenship, his or her children will not automatically be considered to have renounced their citizenship as well. Although not stated explicitly in Article 13 of the Nationality Act, the Ministry of the Interior explains that these situations are usually solved in close cooperation with the authority that is naturalizing the person concerned and that it would require a separate formal request for renunciation of the child's nationality.<sup>162</sup> This needs to be regulated in order to ensure that children of parents who request renunciation are not left stateless. Since February 2014, the DI can receive requests for renunciation of Icelandic citizenship.

Article 66(1) of the Icelandic Constitution states that the loss of Icelandic citizenship will only occur in a case where a person 'accepts' citizenship of another state; nevertheless Article 12 of the Nationality Act lays out other circumstances in which an Icelandic citizen can lose the citizenship. An Icelandic citizen will lose citizenship on attaining the age of 22 years if the person is born abroad and has neither been domiciled in Iceland nor resided in Iceland for any purpose that may be interpreted as indicating that he or she wishes to be an Icelandic citizen.<sup>163</sup> An exception is made if the person will become stateless upon losing his/her Icelandic nationality or if the person applies, before attaining the age of 22, to retain the citizenship. If a person in this situation has a child who acquired Icelandic nationality together with or based on the parent's nationality, the child will also lose Icelandic nationality, unless it results in statelessness for the child.<sup>164</sup>

The Icelandic Constitution provides that "no one may be deprived of Icelandic citizenship." In accordance with this constitutional requirement, an Icelandic citizen cannot be deprived of nationality. In case of fraudulent conduct, such as giving false information to the Icelandic authorities when applying for citizenship, that person will not be deprived of citizenship. The person granted Icelandic citizenship on the basis of false information can however be punished by fines or imprisonment of up to one year.<sup>165</sup>

## 4.3.4 Reduction of statelessness

### 4.3.4.1 NATURALIZATION

Article 32 of the 1954 Convention obliges states to "facilitate as far as possible the assimilation and naturalization of stateless persons. [States] shall in particular make every effort to expedite naturalization proceedings and reduce as much as possible charges and costs of such proceedings." In light of article 32 of the 1954 Convention and the aim of the 1961 Convention, states are obliged to facilitate the naturalization process of stateless persons applying for citizenship.

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<sup>160</sup> Before the amendments in February 2014 the Ministry of the Interior followed up on the acquisition of another citizenship. This is now in the hands of the DI.

<sup>161</sup> Article 13 (1) of the Icelandic Nationality Act. An example of exceptions can be found with Icelandic persons becoming Norwegian, as no dual citizenship is allowed there, but who nonetheless live in Iceland.

<sup>162</sup> Interview with the Ministry of the Interior, 28 October 2012.

<sup>163</sup> This has not been specified in the Nationality Act. According to the Ministry of the Interior, in practice emphasis is laid on the specific connection that the person has established with Iceland. Interview with the Ministry of the Interior, 28 September 2012. Following the amendments in February 2014, the DI will now assess this provision.

<sup>164</sup> Article 12(3) of the Nationality Act.

<sup>165</sup> Article 11 of the Nationality Act. This provision was added to the Icelandic Nationality Act with legal amendments no. 81 from 2007. The original proposal stipulated the right to deprive an Icelandic citizen of his nationality due to false information. This was however changed during the parliamentary process due to the constitutional requirements forbidding deprivation of Icelandic nationality. See further in Schram, G.G., *Stjórnskipunarréttur*, 1997 and <http://www.althingi.is/altext/133/s/1070.html>.



According to the nationality law, Icelandic citizenship can be acquired by birth and adoption (as previously explained), by naturalization and by statutory law. This last option means that a person would apply for citizenship to the Parliament, which could grant nationality by issuing a law stating name, date of birth, former nationality and a declaration that this person is now an Icelandic national. In the Icelandic legal system, the granting of Icelandic citizenship by statutory law is the main rule and naturalization by administrative decision is the exception.<sup>166</sup> Nevertheless, in practice, naturalization takes place by an administrative decision taken by the DI. If the applicant does not fulfil the requirements for naturalization spelled out in Articles 8 and 9 of the Nationality Act, the applicant has the possibility to refer the application to the Parliament to acquire Icelandic citizenship by statutory law.<sup>167</sup>

The main rules on naturalization can be found in Article 7 of the Nationality Act in which the DI is given the authority to grant an applicant Icelandic citizenship upon fulfilling specific requirements laid out in Article 8 and Article 9 and after having received comments from the National Police in a relevant municipality. The comments from the National Police include all information registered by the National Police about the applicant.

Article 8 of the Nationality Act contains the minimum requirements for residence before an applicant can apply for naturalization. The minimum period is seven years. Various exceptions to the duration of the residence are stipulated in Article 8(1) of the Nationality Act, but there is no specific requirements in place for stateless persons. Furthermore, an applicant needs to fulfil the criteria laid out in the Act on Foreigners in relation to the granting of a permanent residence permit. At the time of the application, the applicant must be a holder of such a permit.<sup>168</sup> For stateless persons, this provides an obstacle. Due to the limited availability of remedies in the immigration system and the lack of a statelessness determination procedure, a stateless person will have difficulty in being able to show some kind of residence permit that can constitute a basis for permanent residence permit, before he or she can obtain Icelandic nationality.

According to Article 9(1) of the Nationality Act the applicant “shall have demonstrated his identity satisfactory.” According to the explanatory note the main evidentiary requirement is that the applicant has been able to establish his or her identity with documentary evidence such as a passport, birth certificate or other identity document. Photos and fingerprints can also be considered. The explanatory note also emphasizes and acknowledges the importance of the special status of refugees and others, where it is impossible to prove the identity in the traditional manner.<sup>169</sup> Stateless persons are not always in possession of identity documents and as nationality is seen to be part of identity, stateless persons may find it difficult to meet this requirement, unless given the same special status as refugees and others for whom it is impossible to prove the identity in traditional manners.

In practice, the applicant files his or her application with the DI which is the competent authority in all matters related to naturalization. The DI assesses the identity of an applicant based on the documentation that the applicant is able to provide. If an applicant is not able to provide documents that are thought to prove the applicant’s identity, the applicant would most probably be rejected.<sup>170</sup> In case of rejection by the DI, the applicant has the possibility to appeal the negative decision to the Ministry of the Interior according to Art. 17 of the Nationality Act or apply for Icelandic citizenship through statutory law (i.e. by application to the Parliament which will be explained in more detail in chapter 4.3.4.2).

Article 9(2) of the Nationality Act states that the applicant “shall be capable of working and have good reputation, which he shall demonstrate by submitting testimonials from two Icelandic citizens of good

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<sup>166</sup> See <http://www.althingi.is/altext/133/s/0643.html>.

<sup>167</sup> Interview with the Ministry of the Interior, 28 September 2012.

<sup>168</sup> Article 8 (3) of the Nationality Act. The criteria for permanent residence permit can be found in article 15 of the Act on Foreigners. The requirement to be a holder of a residence permit has exceptions for Nordic citizens, foreigners who were born Icelandic citizens, foreigners that have a spouse or parents that are Icelandic citizens, see further in article 8 of the Act on Foreigners.

<sup>169</sup> See the bill proposal and the explanatory notes (in Icelandic) at: <http://www.althingi.is/dba-bin/ferill.pl?ltg=133&mnr=464>.

<sup>170</sup> Interview with the Ministry of the Interior, 28 September 2012.

standing.” The Ministry of the Interior has explained that applicants usually submit letters of recommendation from co-workers or friends. It was further explained that this requirement is generally easily fulfilled.<sup>171</sup> How this requirement is satisfied by stateless persons (especially children, elderly persons or persons with a disability) is not known as no concrete cases could be examined. After the amendments of the Nationality Act in February 2014, the DI now assesses the submitted testimonials.

Article 9(3) of the Nationality Act stipulates that the applicant “shall have passed a test in Icelandic in accordance with standards set by the [Minister of Interior]”. It was stipulated in the *travaux préparatoires* that exceptions from this requirement should be made on special occasions.<sup>172</sup> The Ministry of the Interior is allowed to charge the applicants fees and the applicants must establish their identity with a personal identification document including a photograph, prior to taking the test, which could potentially be problematic for stateless persons.<sup>173</sup> According to article 2 of the Regulation, the Ministry of the Interior may grant a person who is applying for Icelandic citizenship an exemption from the requirement if it is considered unfair.<sup>174</sup> One exception is if the applicant is able to confirm Icelandic language skills.<sup>175</sup>

In addition, according to Article 9(5) of the Nationality Act, “the applicant shall be required to demonstrate that he has supported himself in a lawful manner in Iceland, and the DI may call for tax returns and materials from the tax authorities in confirmation of this”. This means that the applicant may not have received a support grant from a local authority (financial subsistence from the social services in the municipality where they reside) in the last three years. It must be noted that the *travaux préparatoires* provide that it can happen that applicants needed a support grant due to their poor financial situation upon arrival to the country or due to illness. According to the *travaux préparatoires*, such applications should be referred to Parliament for further consideration. For the purpose of this research, the Ministry of Interior has explained that the practice differs between those applicants who receive general support grants, such as unemployment benefits, and those who receive special support grants like educational grants. If the grant is the main income of the applicant, the application will probably be rejected.<sup>176</sup> After the amendments on the Nationality Act in February 2014, the DI now assesses when the applicant should be rejected.

Stakeholders expressed their concern in relation to this requirement during this research. The Icelandic Human Rights Centre expressed their concern that families, who would be eligible for a support grant, do not apply for a support grant due to fear of losing their right to become Icelandic citizens or of postponing the process.<sup>177</sup>

Moreover, according to the homepage of the DI, fees are charged in order for the application to be processed.<sup>178</sup> Article 32 of the 1954 Convention specifically stipulates that states should reduce the possible costs of naturalization proceedings.<sup>179</sup>

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<sup>171</sup> Interview with the Ministry of the Interior, 28 September 2012.

<sup>172</sup> See <http://www.althingi.is/altext/133/s/0643.html>. The exceptions are spelled out in a regulation No. 1299 from 2008 on Icelandic language tests for persons applying for Icelandic citizenship.

<sup>173</sup> Article 5 of the regulation No. 1129/2008.

<sup>174</sup> The regulation further stipulates that this could apply, for example, when an applicant has reached the age of 65 and has been legally domiciled in Iceland for the 7 years immediately preceding the submission of his application. Other exceptions are mentioned, such as if the applicant is attending an Icelandic junior school, or has not yet reached junior school age. According to the regulation, the exception is also relevant for an applicant who is able to confirm, by means of a medical certificate, or other appropriate certificates from specialists in the appropriate fields, that the applicant is not able to take the test due to serious obstacles of a physical or mental nature. Cases known where the requirement was considered ‘unfair’ relate mainly to the elderly and illiterate persons.

<sup>175</sup> Article 2 (1) a-d of the regulation No. 1129/2008.

<sup>176</sup> Interview with the Ministry of the Interior, 28 September 2012.

<sup>177</sup> Interview with the Icelandic Human Rights Centre, 16 August 2012.

<sup>178</sup> Afgreiðslugjald; <http://utl.is/index.php/um-utlendingastofnun/afgreidhslugjald>

<sup>179</sup> See for example UNHCR Guidelines No. 4 under heading V (b) ‘Fees’ (without paragraph number).

Another requirement for being eligible for Icelandic citizenship is stipulated in Article 9(6) of the Nationality Act, which provides that “the applicant may not, either in Iceland or abroad, have been fined or imprisoned or be involved in a case pending in the criminal justice system in which he is suspected of, or charged with, conduct that is criminal under Icelandic law.” This provision has recently been changed. In the amendments, emphasis has been placed on the equal weight of having been sentenced domestically or abroad, provided that the act which the person is sentenced for is criminalized in Icelandic legislation. In line with similar provisions in neighbouring countries, persons who have been sentenced can apply for citizenship after a considerable period of time. In cases of repeated offences the applicant never meets the requirements of the Nationality Act and his or her citizenship application is therefor referred by the DI to Parliament. In this respect, it should be noted that: “Criminal consequences due to irregular presence on the territory of a State are never to be used to disqualify an individual who would otherwise be stateless from acquiring nationality [...]”<sup>180</sup>

Despite the international standards, no reference is made in national law to stateless persons who apply for Icelandic nationality via the naturalization process. Stateless applicants will thus be evaluated on the same terms as other applicants. To give an example, in Article 8 of the Nationality Act, various exceptions are made from the general requirement of the length of legal residence, but no reference is made to stateless persons; neither are stateless persons mentioned in Article 9, which stipulate the requirements for naturalization. Even so, a number of potential barriers for stateless persons have already been highlighted. The national system is, as such, not completely in line with international standards. The naturalization process should therefore be reviewed and made to comply with international standards.

In numerical terms, the number of stateless persons who have obtained Icelandic citizenship during the last 10 years is not high. This is in line with the low number of stateless persons generally living in Iceland in the same period.<sup>181</sup> Nevertheless, during the last six years, significant peaks in naturalization can be seen for example in the year 2006 and 2008; respectively 25 and 26 stateless persons were granted citizenship. The Ministry of the Interior was contacted in order to try to shed light on these peaks. The experts from the citizenship unit of the Ministry of the Interior expect the peaks to be due to flaws or mistakes made in the registration of statelessness or even due to a number of refugees who were registered as stateless acquiring Icelandic citizenship.<sup>182</sup>

**Table 5:** Stateless persons granted Icelandic citizenship (2002-2011)<sup>183</sup>

Year	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
<b>Stateless</b>	1	3	1	1	25	5	26	4	7	4
<b>Total</b>	<b>356</b>	<b>463</b>	<b>671</b>	<b>726</b>	<b>844</b>	<b>647</b>	<b>914</b>	<b>728</b>	<b>450</b>	<b>370</b>

Source: Statistics Iceland 2012.

In 2000-2002, no stateless children were naturalized in Iceland, and in 2003 and 2005, one child was granted citizenship. In 2006 and 2008, the numbers seem to increase with the same pattern shown in Table 5 *Stateless persons granted Icelandic citizenship*.<sup>184</sup> In the last three years, 2009-2011, no stateless children have been naturalized, as seen in Table 6

<sup>180</sup> UNHCR Guidelines No. 4, para. 45. Other standards are set out in para. 46.

<sup>181</sup> The population of naturalized stateless persons in Iceland is drawn from the published statistics from Statistic Iceland.

<sup>182</sup> Interview with the Ministry of the Interior, 28 September 2012. Email from the Ministry of the Interior dated 21 May 2014.

<sup>183</sup> According to Statistics Iceland, Foreign citizens gaining Icelandic citizenship by former citizenship, sex and age 1991-2011, [www.hagstofa.is](http://www.hagstofa.is) [accessed 10 September 2012]. Information is based on Articles 3, 4, 5, 5a, 6, 9 b and 11 of the Icelandic Nationality Act no. 100 from 1952 (with later amendments). See also: <http://goo.gl/FYtMuA>.

<sup>184</sup> The peaks in number seen in years 2006 and 2008 in Table 6, has the same explanation as the peaks in Table 5 according to the Ministry of the Interior, i.e. due to mistakes in registration of statelessness. Interview with the Ministry of the Interior, 28 September 2012.

**Table 6:** Stateless children granted Icelandic citizenship (2000-2011)

Year	2003	2004	2005	2006	2007	2008	2009 - 2011
<b>0-4 years</b>	1	0	1	0	2	2	0
<b>5-9 years</b>	0	0	0	0	0	1	0
<b>10-14 years</b>	0	0	0	5	0	2	0
<b>15-19 years</b>	0	0	0	6	0	7	0
<b>Total</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>11</b>	<b>2</b>	<b>12</b>	<b>0</b>

Source: Statistics Iceland

#### 4.3.4.2 OTHER MODES

In the foregoing paragraphs, the option of obtaining nationality through statutory law has already been explained. This option is laid down in Article 6 of the Nationality Act and can be used where the application for naturalization is rejected.

If a person decides to apply for Icelandic nationality through statutory law, the applicant must file his or her application with the DI. The Nationality Act is silent on the evaluation of the application that should take place within the DI (no concrete criteria are known). According to the Ministry, the only evaluation that takes place at the DI before the application is sent to the Committee of Judicial Affairs and Education (*Allsherjardog menntamálanefnd*) - a standing Committee in the Parliament - is to check to see if the applicant has submitted all required documents.<sup>185</sup> Having received the additional opinions prescribed by law,<sup>186</sup> the application is sent to the Committee of Judicial Affairs and Education, which reviews the application and the additional documents and prepares the legislation proposal to be laid before the Parliament. The Committee of the Judicial Affairs and Education and the Icelandic Parliament are only bound by Iceland's Constitution and general constitutional principles applicable in the Icelandic legal system when preparing and voting on the proposal. Such proposals are laid before the Parliament twice a year, in December and in May.

If a person is granted Icelandic citizenship by a statutory act in accordance with Article 6(1), unmarried children under the age of 18 years who are domiciled in Iceland and who are under the custody of the person, will also acquire Icelandic nationality according to Article 6(3) of the Nationality Act.

Another option for obtaining Icelandic citizenship is laid down in Article 3 of the Nationality Act. This article states that those who are foreign nationals but have been domiciled and resided in Iceland since, at the least, attaining the age of 11 years will acquire Icelandic citizenship if the DI is notified after the person turns 18 years and before attaining the age of 20. Stateless persons in the same situation are entitled to the same rights if they have been domiciled and resided in Iceland since the age of 13 years.

Moreover, Article 4 of the Icelandic Nationality Act stipulates the right of a person who acquired Icelandic citizenship at birth and who was domiciled in Iceland continuously until attaining the age of 18 but who has lost Icelandic citizenship. The article states that a person who has lost Icelandic citizenship and who meets the requirements is entitled to acquire Icelandic citizenship again, if the person was domiciled in Iceland for two years immediately preceding a declaration of a desire for re-acquiring Icelandic citizenship in writing to the DI.

In the case of a person, who acquires Icelandic citizenship based on domicile or residence as described above, and who has custody over an unmarried child under the age of 18 years who is domiciled in Iceland, the child is also entitled to Icelandic citizenship.<sup>187</sup>

<sup>185</sup> Interview with the Ministry of the Interior, 28 September 2012. The documents required are residence permit, information on registered civil status if married, domicile, identity (passport), letters from two Icelandic citizens, information about Icelandic language test, information from tax authorities and other materials in relation to liquidation. In principle, these documents are available to stateless persons, except identity documents.

<sup>186</sup> The DI shall gather the opinion of the National Police in local district of the applicant and prepare its own opinion on the application, before sending it along with the application to the Parliament, according to Article 6 of the Nationality Act.

<sup>187</sup> Article 5 of the Nationality Act.

## 4.4 Conclusions and recommendations

Iceland is not a party to the 1961 Convention and a number of national legal provisions are not in line with international standards. Children born stateless on Icelandic territory are not fully protected, and the age limit for making an application is lower than the limit provided in the 1961 Convention. Although the national provision on foundlings has never been applied, the provision must be interpreted in line with the UNHCR Guidelines on Statelessness No. 4 to fully meet international standards. Furthermore, the legal framework does not regulate the situation of birth on an Icelandic ship or aircraft.

With regard to loss, renunciation and deprivation of nationality, safeguards are implemented and followed up on with respect to the prevention of statelessness. Where a person may become stateless as a result of loss, renunciation or deprivation, the person retains Icelandic citizenship.

The requirements that need to be met in order to naturalize have not been adjusted to take the specific constraints of stateless persons into consideration, which may hamper their ability to obtain Icelandic citizenship. Also, the roles and responsibilities of the different authorities involved needs to be better regulated in order to prevent a situation whereby stateless persons have to establish their identity in an independent, separate naturalization procedure. The option to obtain citizenship through statutory law may offer an alternative route for stateless persons, although the requirements are not entirely clear and applicants still need to provide certain documents that are potentially difficult to produce.

In light of the findings in this chapter, it is recommended that Iceland accedes to the 1961 Convention and amends its national legislation, including the Nationality Act, in order to bring the legal framework fully in line with the standards set out in the 1961 Convention and other relevant international and regional conventions. Specifically, it is recommended to provide for the automatic granting of Icelandic nationality at birth, to children born on the territory who would otherwise be stateless, which would *inter alia* require a revision of the current requirement on legal domicile. In addition, the time limit imposed on stateless persons to apply for Icelandic citizenship after the age of 18 years should be removed, and the time limit for a person born stateless in Iceland to apply for Icelandic citizenship be extended until at least 21 years, in accordance with the 1961 Convention. Furthermore, the legislation should be amended to allow persons born stateless outside Icelandic territory to an Icelandic father, to apply for Icelandic citizenship before attaining the age of 23 years. In regard to foundlings, it is recommended to stipulate in, for example, working regulations or guidelines, that the national provisions in this area should be interpreted in line with the UNHCR Guidelines on Statelessness No. 4.

Given the lack of protection provided in national law to children born on a ship or aircraft, it is recommended to implement the relevant standards set out in the 1961 Convention and apply these in a way which ensures that birth shall be deemed to have taken place in the territory of the State whose flag the ship flies or as the case may be, in the territory of the State in which the aircraft is registered.

Finally, in regard to naturalization, it is recommended that the existing procedure be adapted to facilitate the naturalization of stateless persons. Specifically, stateless persons should at least be allowed to benefit from the limited residence requirement that currently benefits refugees who wish to naturalize. Special consideration should also be given in regard to requirements relating to the minimum period of legal residence prior to the application, proof of identity, the waiting period in case of criminal sentence or fine and the cost of application procedures.

# 5. Concluding remarks and recommendations

Iceland has indicated that it intends to accede to the UN Conventions on Statelessness, including through its acceptance of the recommendation to do so, by the Working Group on the Universal Periodic Review of Iceland.<sup>188</sup> Since Iceland already is a party to a number of human rights instruments, a certain level of protection is granted to persons who are stateless in Iceland. Even so, the national legal system of Iceland is not specifically focused on protecting stateless persons and preventing and reducing statelessness in Iceland. While this report has provided insight into the issues surrounding the current legal system, it is recommended to place these issues in light of the practical experiences of stateless persons, to which end more research is required.

One of the main shortcomings of the Icelandic legal system in this area is that stateless persons must formalize their status through procedures that are not specifically aimed at determining statelessness, and are executed by authorities who have not been given the competence to determine a person's status as stateless. As a result, stateless persons are not always registered as such, and/or encounter problems in their effort to prove their statelessness. In addition, no specific rights are granted to stateless persons although stateless persons receive the protection that is based on their residence status. However, this level of protection is not specific or sufficient enough to address the special circumstances of statelessness.

Another issue relates to the prevention of statelessness. A number of national provisions do in fact prevent statelessness, like the rules on loss, renunciation and deprivation of nationality. On the other hand, rules on prevention of statelessness in relation to birth on or outside the territory are not fully in line with the international standards. Also with regard to reduction of statelessness, the requirements for naturalization do not fully meet the standards of the 1961 Convention.

Hence, a number of adjustments need to be made to the Icelandic legal and institutional framework in order to bring the legislation, practice and institutional capacity fully in line with the international standards on statelessness.

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<sup>188</sup> UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Iceland*, 16 December 2011, A/HRC/19/13, Recommendation 63.4. available at: <http://www.refworld.org/docid/4f2a2f002.html> and Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, A/HRC/19/13/Add.1, p. 6, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/ISession12.aspx>.

Therefore, in order to facilitate Iceland's full compliance with the international standards on the prevention and reduction of statelessness, and protection of stateless persons set out in the 1954 and 1961 Conventions and thus ensure that stateless persons in Iceland are able to enjoy the rights to which they are entitled, UNHCR makes the following suggestions and recommendations:

## Identification and registration of statelessness

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### **IT IS RECOMMENDED THAT THE DEFINITION OF A STATELESS PERSON CONTAINED IN ARTICLE 1 OF THE 1954 CONVENTION IS INCORPORATED INTO ICELANDIC LEGISLATION**

and that guidelines setting out the criteria and procedures for the responsible authorities' identification and registration of persons as stateless contain the same definition as well as criteria for its application, based on the guidance contained in the UNHCR Handbook on Protection of Stateless Persons.

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### **IT IS RECOMMENDED TO REGULATE IN LAW AND/OR IN PROCEDURAL GUIDELINES THE ROLES AND RESPONSIBILITIES OF THE GOVERNMENT AUTHORITIES**

involved in the registration of persons in the territory of Iceland, in the respective databases (e.g. LÖGE and *Erlendur*), to streamline working methods and ensure a consistent approach.

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### **IT IS RECOMMENDED THAT A MECHANISM FOR THE IDENTIFICATION OF STATELESS PERSONS AT BORDERS**

who are not seeking asylum and who are at risk of being arrested due to lack of documentation, is put in place. This requires appropriate training of police and border officials and legal representatives.

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## Capacity to generate age and sex-disaggregated statistics in a timely manner

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### **IT IS RECOMMENDED THAT THE CAPACITY TO RECORD, MAINTAIN AND ANALYZE DATA AND STATISTIC ON ALL IMMIGRATION PROCEDURES BE ENHANCED**

to ensure that the data available reflects the actual stateless population in Iceland, disaggregated by age, sex, origin and birth. This will increase the ability of the relevant authorities and external actors to analyse trends and better assess the situation of the stateless population and understand their needs.

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## Determination of stateless persons and the rights attached to the status

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**IT IS RECOMMENDED THAT ICELAND ACCEDES TO THE 1954 CONVENTION** and translates the Convention into Icelandic legislation.

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**IT IS RECOMMENDED THAT THE TRANSLATION OF THE 1954 CONVENTION** into Icelandic law includes the definition of a stateless person in Article 1 of the 1954 Convention, and that this be applied in line with the guidance contained in the UNHCR Handbook on Protection of Stateless Persons.

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**IT IS RECOMMENDED THAT THE TRANSLATION OF THE 1954 CONVENTION** into Icelandic law includes the establishment of a resource-efficient procedure for the identification and determination of statelessness, including of ‘non-returnable persons’ who may be stateless. Such a procedure could be established within the framework of the DI’s asylum procedure, in line with the guidance provided in the UNHCR Handbook on Protection of Stateless Persons.

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**IT IS RECOMMENDED THAT A SPECIFIC RESIDENCE PERMIT BE INTRODUCED FOR PERSONS RECOGNIZED AS STATELESS** in the procedure proposed to be established, and that stateless persons be granted the rights guaranteed under the 1954 Convention, as elaborated in the UNHCR Handbook on Protection of Stateless Persons and relevant international human rights conventions.

## Prevention and reduction of statelessness

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**IT IS RECOMMENDED THAT ICELAND ACCEDES TO THE 1961 CONVENTION AND TRANSLATES IT INTO ITS NATIONAL LEGAL FRAMEWORK** including by amending the Nationality Act to bring the legislation fully in line with the standards set out in the 1961 Convention and other relevant international and regional conventions that aim to prevent and reduce statelessness.

## Birth in the territory

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**IT IS RECOMMENDED THAT CHILDREN BORN IN THE TERRITORY OF ICELAND WHO WOULD OTHERWISE BE STATELESS BE GRANTED ICELANDIC CITIZENSHIP AUTOMATICALLY AT BIRTH** which would *inter alia* require a revision of the current requirement on legal domicile.

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**IT IS RECOMMENDED THAT THE TIME LIMIT IMPOSED ON STATELESS PERSONS TO APPLY FOR ICELANDIC CITIZENSHIP** after the age of 18 years be removed, and the time limit for a person born stateless in Iceland to apply for Icelandic citizenship be extended until at least 21 years, in accordance with the 1961 Convention.

## Birth outside the territory

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**IT IS RECOMMENDED TO AMEND THE NATIONALITY ACT** in a way which would allow persons born stateless outside the territory of Iceland to an Icelandic father, to apply for Icelandic citizenship before attaining the age of 23 years.

## Foundlings

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**IT IS RECOMMENDED TO INTERPRET THE PROVISION ON FOUNDLINGS IN THE NATIONALITY ACT** in line with the UNHCR Guidelines on Statelessness No. 4.



## Birth on ships or aircraft

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**IT IS RECOMMENDED TO IMPLEMENT THE RELEVANT STANDARDS RELATING TO BIRTH ON BOARD A SHIP OR AIRCRAFT IN THE 1961 CONVENTION** and apply these in a way which ensures that birth shall be deemed to have taken place in the territory of the State whose flag the ship flies or as the case may be, in the territory of the State in which the aircraft is registered.

## Naturalization

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**IT IS RECOMMENDED THAT THE NATURALIZATION PROCEDURE BE ADAPTED TO FACILITATE THE NATURALIZATION OF STATELESS PERSONS.** Specifically, stateless persons should at least be allowed to benefit from the limited residence requirement that currently benefits refugees who wish to naturalize. Special consideration should also be given in regard to requirements relating to the minimum period of legal residence prior to the application, proof of identity, the waiting period in case of criminal sentence or fine and the cost of application procedures. In addition, the relationship between the different authorities needs to be coordinated in order to prevent a situation whereby stateless persons have to establish their identity in an independent, separate naturalization procedure.

## Further research

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**IT IS RECOMMENDED THAT FURTHER RESEARCH IS UNDERTAKEN ON THE PROFILE OF THE STATELESS POPULATION IN ICELAND** including the origins of the persons concerned, their experience from the Icelandic administrative and law enforcement system and the opportunities and challenges they face in order to acquire a more comprehensive understanding of, *inter alia*, the number and status of stateless persons in Iceland.

# Annex I: Questionnaire sent to the International Department of the National Commissioner of the Icelandic Police

## QUESTIONNAIRE

### 1. Your office/department

- 1.1. Your name: .....
- 1.2. Name of office:.....
- 1.3. Type of office: .....
- 1.4. Address of office:.....

### 2. Statistical overview of the stateless population in Iceland

- 2.1. Has your office worked with or in relation to stateless people in Iceland?  
.....
- 2.2. Description of your client(s) age, sex, country of origin and number of clients, if more than one.  
.....
- 2.3. Number of unregistered stateless people that your office has come into contact with?  
.....
  - 2.3.1. At borders .....
  - 2.3.2. Other Immigration control than at borders.....

### 3. Statistical overview of deported stateless people

- 3.1. Number of stateless people to be deported in year/s.....
- 3.2. Number of stateless people that were, *in practice*, deported in year/s .....  
What was the determining connection with the receiving country? (i.e. country of birth, country of former residence etc).....
- 3.3. Number of stateless people that were, *in practice*, **not** deported in year/s .....
  - 3.3.1. Were they not deported due to .....
    - a. No receiving country?.....
    - b. No right of entry or residence in another state? .....
    - c. No country was willing to issue travel document? .....
    - d. Any other reason? .....
  - 3.3.2. Further, is it possible that those who are not deported (due to the abovementioned reasons), are still living in Iceland?.....
  - 3.3.2.1. If known, what is their legal status? .....

### 4. Any other information that might be of value to this research:

.....

## Annex II:

**A) List of recipients of the questionnaire, prepared to capture the human face of statelessness in Iceland.**

**B) Questionnaire sent to NGOs and other possible stakeholders**

### **MAPPING OF STATELESSNESS IN THE BALTIC AND THE NORDIC REGION - Iceland -**

#### **THE PROJECT**

The UN Refugee Agency and the Institute of Human Rights at the University of Iceland are carrying out research on the issue of statelessness in Iceland. This research aims to find out the number, situation and profile of stateless persons in Iceland and analyze Icelandic law, policy and practice relating to stateless persons in light of the international standards in this area, in particular the 1954 Convention on the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

#### **WHAT DOES BEING STATELESS MEAN?**

A stateless person is someone who does not enjoy citizenship – the legal bond between a state and an individual – with any country. They find themselves marginalized, often unable to obtain identity documents, to travel, access health or education or even marry. There are at least 12 million stateless persons worldwide, including over 600,000 living in Europe. It is currently not known how many stateless persons are living in Iceland.

#### **HOW WILL THE RESEARCH BE USED?**

The numbers, status and rights of stateless persons in Iceland are currently unknown and a detailed mapping of Icelandic legislation, practice and institutional capacity in the area of statelessness has so far not been undertaken. Our research aims to gather data and through indicative examples, better understand the situations stateless persons find themselves in. This questionnaire is one of the ways we will use to capture this data.

#### **HOW CAN YOU HELP?**

We need your help to identify the numbers and status of stateless persons in Iceland. It would be of great value to this research if you could fill out the following questionnaire, in accordance with the experience of your organization/institution/office. We might ask you to meet with the researcher to follow up on the questionnaire.

**All information will be treated in confidence and the identity will remain anonymous in the report. Participation can be withdrawn at any stage before the publication of the report. Please find enclosed an informed consent form.**

Please return this questionnaire and the informed consent form, in English or in Icelandic, as early as possible but ideally before **10 August 2012** to Hrefna Dogg Gunnarsdottir, legal consultant at UNHCR Regional Office in Stockholm, Sweden via email: [dogg@unhcr.org](mailto:dogg@unhcr.org), who can be contacted for any question you may have about the project.

**Thank you for your time**

## **INFORMED CONSENT FORM**

### **TITLE OF THE RESEARCH:**

Mapping of Statelessness in the Baltic and the Nordic Region, Iceland.

### **NAME OF THE RESEARCHER:**

Hrefna DoggGunnarsdottir

### **AIM OF THE RESEARCH:**

The research project is being undertaken by UNHCR Regional Representation for Northern Europe in cooperation with the Institute of Human Rights at the University of Iceland. The purpose is to complete a detailed mapping of the number, situation and profile of stateless persons in Iceland and an analysis of relevant Icelandic law, policy and practice relating to stateless persons in light of the international standards in this area.

### **WHAT WE REQUEST FROM YOU:**

We ask for your insight into the number, situation and profile of stateless persons in Iceland gained through your organization/institution/office's experience working with or on behalf of stateless persons. Further, we ask for your permission to use the answers given in the enclosed questionnaire for the purpose of this research. If needed, we might ask you for some further explanations to follow up on information given in the questionnaire.

### **CONFIDENTIALITY AND ANONYMITY:**

The data collected from your organization/institution/office will only be used for the purpose of this study and may be published in a report, but all identifying details about your client(s) will remain strictly confidential.

### **WITHDRAWING YOUR CONSENT:**

If you change your mind after submitting the informed consent form and no longer wish to participate in the research on behalf of your organization/institution/office, please notify the researcher.

### **ADDITIONAL QUESTIONS:**

#### **If you have any questions about the project you can direct them to the researcher directly:**

Hrefna DoggGunnarsdottir  
Regional Office for the Baltic and Nordic Countries  
Ynglingagatan 14, 6th fl.  
SE-113 47 Stockholm  
Sweden

Tel: +46 (0)8 457 48 85  
Fax: +46 (0)8 457 48 87  
dogg@unhcr.org

## INFORMED CONSENT

I ....., who is responsible for the answers given by the following organization/institution/office ..... have read and understood the information above and any questions I have asked have been answered to my satisfaction. I therefore submit my enclosed answers to the questionnaire for the purpose of the ongoing research by UNHCR on statelessness and the report that will be published as the final product of this research.

I agree that the research data collected for the study may be published on the condition that all identifying details of my clients are not used.

I understand that I may withdraw my consent at any stage before the publication of the report.

Signed:.....

Date:.....

## QUESTIONNAIRE

### 1. Your organization/institution/office

1.1. Your name:.....

1.2. Name of organization/institution/office:.....

1.3. Type of organization/institution/office: .....

1.4. Address of organization/institution/office:.....

### 2. Statistical overview of the stateless population in Iceland

2.1. Has your organization/institution/office worked with or on behalf of stateless people in Iceland?.....

2.2. Description of your client(s) age, sex, country of origin and number of clients, if more than one.  
.....

### 3. Origin of statelessness (If questions number 2.1 or 2.2 were answered with a yes)

3.1. Description of your client(s) reason/s for coming to Iceland?.....

3.2. Description of your client(s) living conditions before coming to Iceland? .....

3.3. Description of your client(s) origin of statelessness:

Causes of statelessness	No. of clients
Not registered at birth Please specify if you have any further information: .....	
Had a citizenship but lost it Please specify if you have any further information: .....	
Had a citizenship but was deprived of it Please specify if you have any further information: .....	
Had a citizenship but was renounced of it Please specify if you have any further information: .....	
Never had a citizenship of a country Please specify if you have any further information: .....	
Other Please specify if you have any further information: .....	

**4. Procedures (If questions number 2.1 or 2.2 were answered with a yes)**

- 4.1. Description of your client(s) contact with judicial and administrative procedures  
.....
- 4.1.1. If detained or sentenced in the Icelandic legal system,  
please specify reasons of detention/sentence.....

**5. Status and Rights (If questions number 2.1 or 2.2 were answered with a yes)**

- 5.1. Description of your client(s) current status and residence.....
- 5.2. Description of your client(s) living conditions in Iceland as a stateless person  
.....
- 5.3. Description of your client(s) ways to support him/herself.....
- 5.4. Description of your client(s) ability to travel.....

**6. Any other information that might be of value to this research:**

.....

.....



# STATELESSNESS