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Section 4.13. Statelessness in the context of asylum

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Statelessness is a legal anomaly which affects people who are not considered a national by any state. Lacking any state's protection means stateless persons may not be able to fully exercise their fundamental rights, including access to education, health care, housing, employment, social welfare and documentation.

The 1954 UN Convention relating to the Status of Stateless Persons defines a stateless person as someone "who is not considered as a national by any state under the operation of its law". Nationality is the legal bond between a person and a state, and international law establishes the right of every person to a nationality. States are free to regulate nationality, but this must be within the limits of international law, for example by being non-discriminatory and non-arbitrary, avoiding statelessness and ensuring gender equality.

Nationality is generally acquired at birth by descent *(jus sanguinis)*, place of birth *(jus soli)* or later in life based on residence, marriage or adoption. A person may be born stateless if the law in their country is discriminatory and does not grant nationality to certain ethnic groups or allow women to pass on nationality to their children. Children born into migrant communities may also be at risk of statelessness when the country they are born in does not grant nationality based on the principle of *jus soli* and they are unable to obtain the nationality of their parents. One reason for this may be that their parents are refugees who cannot approach the embassy of their country of origin to request nationality for their children out of fear of persecution. People may also lose their nationality later in life. This may be as a result of discriminatory laws or challenges acquiring a new nationality after state secession.

To eliminate statelessness in the EU, it is important that Member States have procedures in place to ensure that stateless persons are recognised and that a specific path exists for them to become citizens of the country in which they reside.

While stateless persons and refugees are two distinct categories in international law, a person can be both a refugee and stateless. In the context of asylum, statelessness may also be relevant to the determination process for an asylum application as in many instances the reasons why a person left their country are linked to reasons why they are stateless. It is therefore important that both claims are assessed and both statuses addressed explicitly. In

instances where international protection is not granted on one ground, statelessness may comprise another ground based on which the person may still necessitate international protection.

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