



# STATELESSNESS IN UKRAINE

DIGEST • 2023

ASSISTANCE TO THE STATELESS POPULATION IN UKRAINE  
PROGRAMME OF RIGHT TO PROTECTION

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# INTRODUCTION

Statelessness is a negative phenomenon caused by individuals' lack of legal connection with their country of origin or country of long-term residence. This, in turn, leads to grave violations of the fundamental rights of individuals in all areas of human life. Throughout 2023, the statelessness continued to spread in Ukraine due to the collapse of the USSR, gaps in legislation, and the war that had been ongoing since 2014.

To overcome this phenomenon and to prevent its occurrence, Ukraine has had the relevant obligations within the United Nations Convention Relating to the Status of Stateless Persons and the United Nations Convention on the Reduction of Statelessness. In 2021, the statelessness determination procedure was introduced in Ukraine. It gives all stateless people in Ukraine, regardless of the legality of residence, the right to obtain legal status and an identity document.

## **ARTICLE 25 OF THE CONVENTION RELATING TO THE STATUS OF STATELESS PERSONS**

1. When the exercise of a right by a stateless person would normally require the assistance of authorities of a foreign country to whom he cannot have recourse, the Contracting State in whose territory he is residing shall arrange that such assistance be afforded to him by their own authorities.
2. The authority or authorities mentioned in paragraph 1 shall deliver or cause to be delivered under their supervision to stateless persons such documents or certifications as would normally be delivered to aliens by or through their national authorities.

**ARTICLE 1 OF THE CONVENTION ON THE REDUCTION OF STATELESSNESS**

A Contracting State shall grant its nationality to a person born in its territory who would otherwise be stateless. Such nationality shall be granted:

(a) at birth, by operation of law, or

(b) upon an application being lodged with the appropriate authority, by or on behalf of the person concerned, in the manner prescribed by the national law. Subject to the provisions of paragraph 2 of this Article, no such application may be rejected.

However, to overcome statelessness, it is also necessary to solve other issues, such as ensuring timely birth registration of each child, granting the right to obtain citizenship for children born in Ukraine, eliminating administrative barriers in procedures for issuing identity documents, citizenship or another legal status, as well as attention to the vulnerability of stateless persons and those at risk of statelessness.

2023 marks the 9th anniversary of UNHCR's decade-long #IBelong campaign<sup>1</sup> to eradicate statelessness by identifying and protecting stateless persons, addressing existing situations of statelessness, and preventing the emergence of new cases

The results of this campaign show that statelessness continues to exist and spread throughout the world, particularly in Ukraine, and therefore, developing new strategies to overcome this phenomenon is already necessary.



<sup>1</sup> <https://www.unhcr.org/ibelong/>

As of 2023, the following categories of stateless persons resided in Ukraine:

- undocumented people;
- persons who applied for statelessness determination procedure (342 persons applied in 2023);
- stateless persons recognised by the State Migration Service (SMS);
- stateless persons recognised by other states;
- persons at risk of statelessness.

The majority of stateless persons in Ukraine are people who have lived or were born in Ukraine for a long time. However, they could not confirm their citizenship in Ukraine or another state. Accordingly, they could not regulate their status and receive documents for legal residence, since no relevant procedure was established until 2021.

In Ukraine, most stateless persons and those at risk of statelessness are people who are in difficult life circumstances. They are highly vulnerable since for a long time they did not have access to health care and social security, education, employment, and other rights.

## IMPORTANT FIGURES

Since most stateless persons do not have identity documents, it is impossible to determine their actual number. However, one could argue that their number is much higher than according to the available data, and it continues to rise.

In addition, according to UNHCR estimates, almost **72,211** children<sup>2</sup> born in temporarily occupied territories did not have their birth registered by the competent Ukrainian authorities, and it may be a precondition for the rise of statelessness.

**35,000**

stateless persons live in Ukraine according to UNHCR estimates

**116**

persons recognised as stateless persons by the SMS in 2023

**?**

due to the lack of documents, it is impossible to establish the real number of stateless persons

In 2023, one of the main causes of statelessness in Ukraine was the lack of the right to obtain citizenship for children born to stateless persons who illegally reside in Ukraine (in violation of international obligations). The other cause was administrative barriers during the procedure of confirmation of Ukrainian nationality, in particular for people coming from the temporarily occupied territories of Ukraine.

<sup>2</sup> <https://www.unhcr.org/ua/реєстрація-народження-особи-без-гром>

## GENERAL OVERVIEW

Due to the ongoing war started in 2014, many people in Ukraine, including Ukrainian citizens, either lost their documents identifying a person, confirming citizenship or another legal status or did not have the opportunity to obtain them, in particular, due to hostilities and occupation of territories. After the beginning of the full-scale invasion in 2022, that issue in Ukraine only worsened.

To take into account the difficulties of documentation during martial law, the Government of Ukraine developed the following basic legislative initiatives, which continued to operate during 2023:

- the validity of ID documents (passport, ID cards, residence permits) was extended for the period of the martial law plus 30 days after its termination (for those whose documents have expired after 24 February 2022);





- the right to obtain abroad a passport of a citizen of Ukraine and a passport of a citizen of Ukraine for travel abroad, permanent residence permits for foreigners and stateless persons permanently residing in Ukraine;
- the right to obtain a certificate of return for citizens of Ukraine, as well as persons recognised by Ukraine as stateless persons or stateless persons permanently residing in Ukraine who were forcibly relocated to the territory of the aggressor state;
- establishing the procedure of identification of a person through video conference, expanding the circle of witnesses for that procedure, the possibility of carrying out that procedure in SMS units abroad.

In addition, to solve the problem of birth registration of persons from the territories under the temporary military control of the Russian Federation in 2023, the draft Law of Ukraine № 9069, was registered in the Parliament of Ukraine. Among other things, this Draft Law presents changes to the legislation of Ukraine, which introduces an extrajudicial administrative procedure for registration of births that occurred in the temporarily occupied territories,





as well as recognition and confirmation of civil status acts that took place in the temporarily occupied territories of Ukraine. Adoption of this Draft Law will facilitate the receipt of Ukrainian birth certificates by people coming from these territories and their ability to confirm Ukrainian citizenship in the future, which, in turn, will positively affect the prevention of statelessness in Ukraine.

Along with such positive legislative initiatives, on 24 February 2023, the Parliament of Ukraine adopted the Law of Ukraine No. 2952-IX which should ensure the protection of the state border and respond to violations of the legislation of Ukraine on the state border. However, the provisions of the Law may cause a violation of the constitutional rights of some categories of stateless persons in Ukraine.

The law introduced changes that give power to law enforcement agencies to make decisions on the forced deportation of foreigners and stateless persons without a decision of an administrative court. That is, the powers

of the court are transferred to the specified law enforcement agencies. Therefore, law enforcement agencies will receive broad discretionary powers when making decisions about forced removal, which creates a threat of their arbitrary application. Also, according to introduced changes, the list of persons who can be detained is significantly expanded, and it is allowed to limit a person's freedom regardless of the court's decision about such a restriction.<sup>3</sup>

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<sup>3</sup> <https://www.statelessness.eu/updates/news/ens-letter-office-ombudsperson-ukraine-law-7475>

# ASSISTANCE TO STATELESS PERSONS

In 2023, lawyers and lawyers directly continued the work on documenting the beneficiaries of the Foundation, in particular, regarding the recognition of a stateless person, as well as confirmation of belonging to Ukraine's citizenship. The main difficulty in such cases is the identification of the person since most people who apply for assistance do not have documents proving their identity and often no other papers about the facts of their lives.

193

birth certificates received by beneficiaries

59

applications for recognition of stateless persons

31

beneficiaries recognised as stateless persons

140

passports of citizens of Ukraine received by beneficiaries

## CATEGORIES OF PERSONS WHO MIGHT FACE STATELESSNESS AND APPLY FOR LEGAL ASSISTANCE

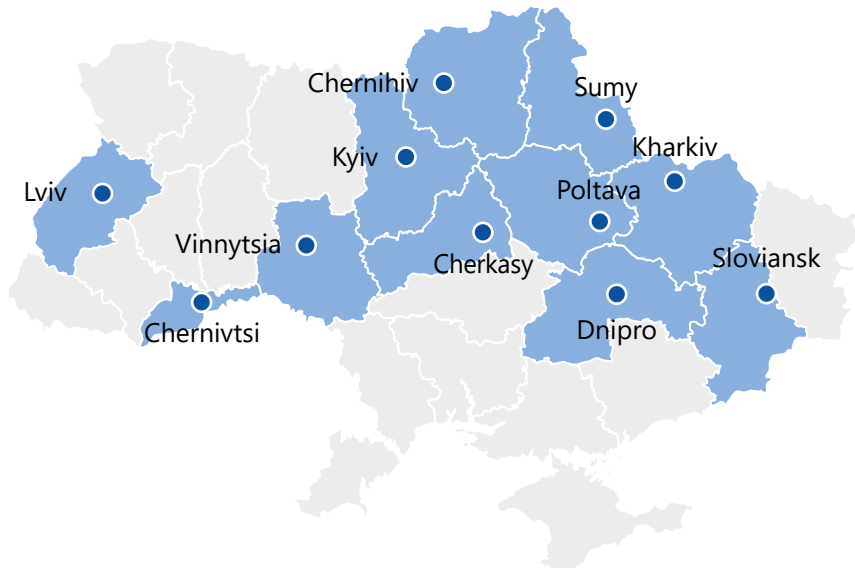
- Citizens of the former Soviet Union who did not exchange a passport after the collapse of the USSR
- Foreigners who have lost their citizenship
- Homeless people
- Persons who were imprisoned
- Romani people
- A person whose birth was not registered in time by the competent authorities
- Persons who cannot renew their passports (and thus confirm their nationality) for reasons beyond their control



«One of the challenges of 2023 both for the state and for the Programme was the problem of access to the fundamental rights of stateless persons and undocumented people at the stage of the documentation process. Often such procedures can last for years, and the need to receive medical assistance, social security, and access to other rights is very acute for such vulnerable categories of the population».

**Sofiiia Kordonets**, Head of the Assistance to Stateless Population in Ukraine programme direction

### REGIONS WHERE THE EXPERTS OF THE ASSISTANCE TO STATELESS POPULATION PROGRAMME WORK



In addition, in 2023, to provide efficient assistance to stateless persons in exercising their legal rights and influence the situation of such persons at the state level, the Programme researched the access of stateless persons and undocumented persons to the fundamental rights in Ukraine and organised a training for stateless persons.

## Educational project for Stateless Persons

This project aims to assist stateless persons in accessing fundamental social and economic rights, services, and the labour market by providing legal assistance, educational training, and psychological sessions. For ten weeks, the participants studied legal and digital literacy. They also had soft skills training and group sessions with a psychologist. While studying participants learned how to act in various life situations related to communication with public institutions and private companies, and how to present themselves and defend their rights.



## The research

# Status of Stateless Persons and Their Ability to Exercise Their Rights, Particularly in the Conditions of the Full-Scale War in Ukraine

In 2023, the Programme experts researched the situation of stateless persons and those at risk of statelessness in Ukraine, and the impact of war on such people's access to their rights. Within the project the Foundation's beneficiaries were interviewed, and relevant legislation and administrative practices were analysed regarding the possibility to exercise fundamental rights by undocumented persons.

The primary task of the study was to identify all people in Ukraine who, for one reason or another, do not have citizenship or any other legal status. The work made it possible to understand the full depth and scale of the problems of stateless people in Ukraine in various spheres of life. As a result, R2P received important information about the actual situation of stateless persons in Ukraine, which will become a strong argument in the struggle to observe their rights, solve existing cases and prevent the rise of new statelessness cases.



In the frame of research a survey on the access of stateless persons (100 persons interviewed) to medical care, employment, education, housing, freedom of movement, social security was conducted.

**RESULTS OF THE SURVEY, % of respondents**

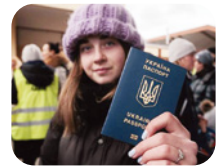


# PUBLICATIONS REGARDING THE ISSUE OF STATELESSNESS IN UKRAINE

Sofia Kordonets, Head of the Assistance to Stateless Population in Ukraine Programme, became a co-author of the article, Forgotten victims of war: stateless persons in Ukraine,<sup>4</sup> published in the September issue of the Forced Migration Review (FMR). The material highlights the problems of stateless persons in Ukraine, as well as recommendations for resolution of this issue.



In a column for RBC-Ukraine, Anastasiia Koval, Legal Analyst of the Assistance to Stateless Population in Ukraine at R2P, discussed the problem of statelessness in Ukraine and ways to solve it.<sup>5</sup>



The programme direction experts' article<sup>6</sup> was published on the official resource of the European Network on Statelessness (a civil society network of organisations and individuals working to promote the right to citizenship in Europe).



Experts were directly involved in writing the European Network on Statelessness submission to inform the European Commission 2023 Enlargement Package in tackling statelessness.<sup>7</sup>



<sup>4</sup> <https://www.fmreview.org/ukraine/ivashuk-kordonets-kanics>

<sup>5</sup> <https://www.rbc.ua/rus/travel/zhittya-pasporta-k-viyna-vplinula-bezgromadyanstvo-1699616031.html>

<sup>6</sup> <https://www.statelessness.eu/updates/blog/navigating-limbo-rights-stateless-people-during-ongoing-war-ukraine>

<sup>7</sup> <https://www.statelessness.eu/sites/default/files/2023-04/ENS%20submission%20DG%20NEAR%20Enlargement%20April%202023.pdf>



# EVENTS ON STATELESSNESS IN UKRAINE

In 2023, to increase the awareness of society and state authorities regarding the problems of stateless persons and those at risk of statelessness, as well as for the training of civil servants related to this sphere, the programme direction organised a series of training sessions, round tables, and other events. Together with the participants, the experts investigated all possible ways of documenting stateless persons and those at risk of statelessness, as well as the issues of access to rights by stateless persons.

In 2023, there were:

- consultations to study the situation of stateless persons and those at risk of statelessness regarding access to the exercise of their rights;
- 4 trainings for employees of the free legal aid system;
- 2 trainings for employees of the system of state registration of civil status acts;





- training for employees of the Office of the Ombudsman of Ukraine;
- a round table for employees of the Office of the Ombudsman of Ukraine and employees of the free legal aid system;
- working meeting on the procedure for employment of stateless persons in Ukraine.

At the end of November, R2P together with UNHCR and with the support of the Ministry of Justice of Ukraine held the Birth Registration for Every Child in Ukraine: Achievements, Problems and Solutions conference.<sup>8</sup>

Representatives of the Ministry of Justice of Ukraine, the Ministry of Foreign Affairs, the Ombudsman's Office, the Supreme Court of Ukraine, the State Migration Service, the UN agencies, international and national non-governmental organisations, etc., attended the event. The goal was to draw attention to the critical issue of access to birth registration, especially in the context of the ongoing full-scale war in Ukraine.

<sup>8</sup> <https://www.unhcr.org/ua/en/65737-unhcr-calls-for-improved-access-to-birth-registration-to-confirm-legal-identity-and-prevent-statelessness-in-ukraine.html>

# DOCUMENTATION OF STATELESS PERSONS AND THOSE AT RISK OF STATELESSNESS

In 2023, the procedure for recognising a stateless person continued to operate in Ukraine, defined by Article 6 of the Law of Ukraine, On the Legal Status of Foreigners and Stateless Persons, and regulated by the Procedure for consideration of applications for statelessness determination procedure, approved by the resolution of the Cabinet of Ministers of Ukraine No. 317. The specified legal regulation considers the vulnerable position of the applicants of this procedure. However, the practical implementation does not always comply with the norms of the law. In particular, applicants continue to face verbal refusals when submitting documents, as well as requirements to provide documents not provided for by law in a mandatory manner. In addition, it is difficult to apply for the relevant procedure for persons who were born or lived for some time in Russia or Belarus.



## Stateless Person's Route. Undocumented person

### IN THE CASE OF NOT BELONGING TO THE CITIZENSHIP OF ANY COUNTRY IN THE WORLD

- |   |   |   |  |
|---|---|---|--|
| 1 | Statelessness determination procedure         | 2 | Certificate of application for recognition as a stateless person |
| 3 | Decision on recognition of a stateless person | 4 | Temporary residence permit                                       |
| 5 | Immigration permit                            | 6 | Permanent residence permit                                       |
| 7 | Admission to Ukrainian citizenship            | 8 | Passport of a citizen of Ukraine                                 |

### IN THE CASE OF HAVING THE RIGHT TO UKRAINIAN CITIZENSHIP

- |   |                                    |   |                                  |
|---|------------------------------------|---|----------------------------------|
| 1 | Ukrainian citizenship confirmation | 2 | Passport of a citizen of Ukraine |
|---|------------------------------------|---|----------------------------------|

Also, it is worth noting that granting the status of a stateless person does not guarantee that a person will receive an identity document.<sup>9</sup> After being recognised as a stateless person, the applicant must apply for a temporary residence permit. However, the issuance of this document is carried out on

<sup>9</sup> <https://www.statelessness.eu/updates/blog/legal-obstacles-obtaining-temporary-residence-permit-stateless-people-recognised>

general principles without taking into account the right of the applicant of the statelessness determination procedure to obtain such a status, depending on the legality of their stay in the territory of Ukraine. Despite being recognised as a stateless person, some categories of applicants are denied a temporary residence permit due to a court decision on forced return, deportation, or entry ban. That is, the grounds for refusal to issue a temporary residence permit defined by law do not correspond to the guaranteed rights defined by law for the statelessness determination procedure applicants. Therefore, such people fall into a situation of legal uncertainty and cannot obtain an identity document after they are recognised as stateless persons by an authorised body. In addition, another significant problem of documenting stateless persons recognised by Ukraine is the high cost of exchanging a temporary residence permit and issuing an identity card for travel abroad — the only document that allows stateless persons to enter/exit the country. So, accordingly, in 2023, the cost of exchanging a temporary residence permit issued for 1 year was over UAH 1,000, and an identity card for travelling abroad — over UAH 5,500. The

last one is valid only for the period of validity of the permit. The cost of these documents is much higher than the cost of fees for payment of similar documents for citizens of Ukraine and foreigners, and it also does not take into account the vulnerability and poverty of stateless persons. That situation is a violation of the rights of stateless persons by the Convention on the Status of Stateless Persons, which states that the fee for documents should not be higher than the fee for similar documents for citizens of the country and foreigners, and thus it constitutes a serious obstacle to access to documentation for this category of people in Ukraine.



## Beneficiary's story

### **ASAL'S STORY**

When Asal was one and a half years old, she moved to Crimea from Uzbekistan. Her mother and grandmother are citizens of Ukraine. At the age of 19, Asal moved from occupied Crimea to the mainland to live there and obtain documents. However, the girl found out she was a stateless person and faced many obstacles. For over three years, experts from R2P's Assistance to Stateless Population programme helped Asal on the way to obtaining a passport. She received documents and Ukrainian citizenship only at the end of 2023.



Another way of documenting undocumented persons in Ukraine is the procedure for confirming Ukrainian citizenship if a person has the right to citizenship following the provisions of the Law of Ukraine, On Citizenship of Ukraine. In almost all cases, such applicants must undergo a separate procedure to confirm their right to citizenship. The procedure is quite complicated since there are no documents and relevant information in the state registers. In some situations, the authorised body fails to establish the identity and confirm citizenship, so people are forced to apply to the court with statements to establish the relevant facts.

Citizenship often cannot be confirmed, so people apply for a statelessness determination procedure to have at least some chance of obtaining an identity



document. The specified situation prevents the realisation of the rights of this category of people, puts them in a worse legal position, and does not contribute to reintegration into Ukrainian society.

Another obstacle to the acquisition of Ukrainian citizenship by specific categories of stateless persons was the introduction of amendments to the Law of Ukraine, On Citizenship of Ukraine, which introduce passing exams on knowledge of the Constitution, history of Ukraine, and mastery of the state language as a condition for acceptance into Ukrainian citizenship.

Considering the situation of the majority of stateless persons in Ukraine and the lack of access to education for such persons for a long time, the specified requirement may constitute a serious obstacle to the acquisition of Ukrainian citizenship by such persons.

# RECOMMENDATIONS

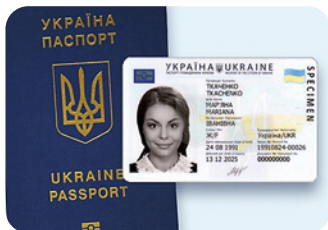
- ✓ Ukraine shall grant its nationality to a person born in its territory who would otherwise be stateless.



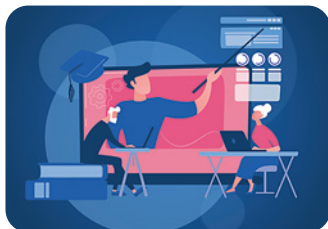
- ✓ Provide an effective birth registration procedure for people born in the temporarily occupied territories.



- ✓ Ensure unimpeded access to the statelessness determination procedure and the procedure for issuing a passport of a citizen of Ukraine in accordance with the law.



- ✓ Conducting an information campaign regarding the problem of statelessness, training employees of state authorities and local government regarding the legal status of stateless persons.





## **ASSISTANCE TO STATELESS PERSONS CF RIGHT TO PROTECTION**



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