

## FACTSHEET: STATELESSNESS IN GERMANY

Joint Submission to the Human Rights Council at the 44<sup>th</sup> Session of the Universal Periodic Review

### STATELESSNESS DETERMINATION AND ACCESS TO RIGHTS

Germany lacks a dedicated statelessness determination procedure (SDP) and protection status. Although the 1954 Convention on the Status of Stateless Persons is transposed into national law, **stateless people have limited access to their rights:**

- There is no dedicated procedure to determine statelessness, and no route for stateless people to regularise their stay on the grounds of statelessness
- A temporary residence permit is only accessible subject to stringent requirements and, in practice, people tend to remain with 'tolerated stay' with the obligation to leave
- The right to work, education, healthcare, and social welfare benefits depends on the type of residence permit issued and on the person's identity and nationality status

### RECOMMENDATIONS

- I. Establish a national statelessness determination procedure and protection status in law and in line with good practice, to give full effect to the rights enshrined in the 1954 Convention to stateless people in Germany, including residence rights.
- II. Provide training to public officials on nationality and statelessness at all administrative levels, and ensure there is clear and accessible information for stateless people on how to access protection and regularise their status, as well as acquisition of nationality for otherwise stateless children born in Germany.

Statelessness may be identified or recorded in other procedures, although these do not have the objective of determining statelessness. This results in many **shortcomings in law and practice which further prevent access to protection for stateless people:**

- Authorities lack awareness on statelessness and tend to register people with 'unclear nationality'
  - Lack of procedures and inconsistencies in the determination of nationality status at birth
  - No clear, binding, and accessible guidance on statelessness determination and status regularisation
- Fair evidentiary rules are not applied, statelessness is often disregarded and procedural safeguards are limited

### CHILDREN'S RIGHT TO BIRTH REGISTRATION AND TO A NATIONALITY

#### RECOMMENDATIONS

- I. Amend nationality laws to ensure that all otherwise stateless children born in Germany automatically acquire a nationality at birth, in particular by removing the 'legal' residence requirement.
- II. Remove all practical barriers to birth registration and ensure that the status of parents does not prevent immediate registration.

Germany does not have a procedure or time limits in place to determine the nationality status of a child born in Germany. This leads to many children being recorded as having 'unclear nationality' for an undetermined period of time, which prevents them from accessing safeguards to prevent statelessness at birth and other fundamental rights. Children of parents whose identity is not established receive an extract from the birth register, instead of a birth certificate, leading to difficulties to access certain rights and acquire a nationality. Registry officials are required to report people with irregular residence status to the authorities, which can be a barrier to registration.

There are safeguards in German nationality law to prevent statelessness for some children born in Germany, but there are significant gaps that result in children still growing up without a nationality. The legal provision under the Nationality Act is conditional on the parents' residence status, which does not implement Germany's obligations under the 1961 Convention on the Reduction of Statelessness. Another legal route depends on the child's lawful residence and other criteria, in violation of international law, requires an application, and is not known or applied by the authorities. The legal framework is insufficient and inconsistent, leading to many stateless children born in Germany to remain without a route to fulfil their right to acquire a nationality.