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Tamara Smith, ILPA Parliamentary Officer tamara.smith@ilpa.org.uk

Immigration Law Practitioners' Association www.ilpa.org.uk 020-7251 8383 (t) 020-7251 8384 (f)

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STATELESSNESS AND APPLICATIONS FOR LEAVE TO REMAIN



ILPA has published a best practice guide to advising and representing clients considering or making an application for statelessness leave in the UK:

[Statelessness and applications for leave to remain: a best practice guide, Dr Sarah Woodhouse and Judith Carter, ILPA and University of Liverpool Law Clinic.](#)

This information sheet explains what statelessness is and how the guide can assist those who may identify stateless persons and make referrals for legal advice and representation, as well as legal practitioners advising on applications for leave to remain as a stateless person.

What is statelessness?

A 'stateless person' is defined in the 1954 UN Convention on the Status of Stateless Persons as '*a person who is not considered as a national by any State under the operation of its law*'. The aim of the 1954 Convention is to offer protection to those whose nationality is not recognised by any country through laws or practice.

How prevalent is statelessness?

The number of stateless persons is estimated to be over 15 million globally, of which one third are children. The numbers are unevenly spread, with especially large numbers originating from and living in South East Asia, Central Asia and the Middle East (Palestinians in particular). There are stateless persons in a number of European countries: for example ethnic Russians in Estonia and Latvia, and Roma living in Eastern Europe. There are also large stateless populations throughout the world arising from, for example, State succession; conflict between States and civil war; gaps in and conflict between nationality laws, disappearance of State territory, for example through climate change; and discriminatory laws and State practice. Well-known examples of communities where statelessness is prevalent are the Roma, Palestinian, Kuwaiti Bidoon, Rohingya and Saharawi peoples.

What is the impact of statelessness?

Stateless persons often lack any status as a person before the law. As a result many have significantly reduced socio-economic and political rights. For example, they may have no rights to work, marry, attend school or higher education, register their birth, vote, or hold

public office. Stateless persons may not be able in law to own property or to start a business. Travel within the State where they were born, let alone across borders, may be limited or impossible. Stateless persons who migrate may suffer all of these problems. They may be unable to return to their country of origin because their nationality is not recognized and as a result may spend lengthy periods in detention whilst efforts to secure identity and travel documents are unsuccessful.

What protection exists in the UK for statelessness persons?

The UK ratified the 1954 UN Convention in 1959. In April 2013, the Home Office introduced a procedure under Part 14 of the Immigration Rules for determining who is a stateless person and for granting leave on this basis.

The application must be made using form FLR(S), supported by detailed evidence that the applicant is stateless. There is no fee or immigration health surcharge to pay. If the Home Office determines that a person is stateless, separate consideration will then be given as to whether leave should be granted. A person who is stateless may not be granted statelessness leave if they are admissible to another country, have another form of protection available to them or if they have committed serious crimes.

Statelessness leave is granted for an initial period of 30 months which can be extended. A person may apply for indefinite leave to remain or permanent stay after five years of lawful leave as a stateless person. A person with statelessness leave may work and access public funds in the UK. They may also apply for a travel document as a stateless person.

Is legal aid available for statelessness applications in the UK?

Statelessness applications do not fall within the scope of legal aid but legal aid may be available through the exceptional case funding scheme. Under the scheme, legal aid may be provided for a case outside the normal scope of legal aid where a person is unable to present their case effectively if they do not have legal representation funded by legal aid. Legal practitioners can advise applicants on their eligibility for funding or refer them to an organisation that can assist them in applying for funding under the scheme. There is no right of appeal in statelessness cases and legal aid may be available to investigate or to bring an application for judicial review of a decision to refuse a statelessness application.

The best practice guide

Cases of stateless persons may crop up in any area of immigration, asylum and nationality practice. The authors provide their expert views on best practice approaches in advising and representing clients who may be stateless. They provide guidance for legal representatives on assessing the applications available to the client, preparing a well-evidenced statelessness application supported by legal argument and on challenging any refusal. The general information in the guide may also be useful to those working for NGOs and community groups in raising awareness of statelessness and the new procedure and to assist them in identifying potentially stateless persons whom they can then refer to legal representatives for advice.

Where do I get a copy of the best practice guide?

Electronic copies are available [here](#). Paper copies are available from ILPA - send an A4 stamped addressed envelope with stamps to the value of £1.46. Copies are also available to ILPA members attending meetings and working groups at the ILPA office.