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The role of the European Union in reducing statelessness among Syrian refugee children



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Executive Summary

Statelessness is a universal problem, which affects more than ten million people worldwide. The UNHCR estimated that every 10 minutes a stateless child is born around the world. As a result of the conflict in Syria, more than 1 million Syrians have fled to neighbouring countries or to the EU. Nevertheless, childhood statelessness among Syrian refugees is an almost invisible problem, which is overshadowed by the more general issue of very large number of Syrian refugees, both within and outside the EU.

The main aim of this dissertation is to evaluate why children from Syrian refugees are born stateless in the EU and what kind of role the EU should have. The central question is as follows; ***'What can the European Union do to reduce statelessness among children from Syrian refugees in the EU?'***

Several subquestions have been created and qualitative and limited quantitative research has been conducted to collect the required information. Secondary data, such as official documents of the United Nations, international policy and legislature documents (conventions), books, professional journals, papers and reports (about statelessness) have been used to collect precise, trustworthy and neutral information. Primary data have been collected through an interview with the co-director of Institute on Statelessness and Inclusion, Mrs. van Waas to have more in-depth information about statelessness among children from Syrian refugees.

Several political and legal causes create statelessness among Syrian children born in the EU. These comprise unequal rights in Syrian nationality laws, absence of birth registration and different safeguards in EU Member States to obtain a nationality, but that may require complicated procedures and limited timeframes. These children may, without a nationality or birth registration/certificate, have less access to essential human rights and public services, such as healthcare and education.

The role of the EU in reducing childhood statelessness is at present very limited. It is highly recommended (also by scholars) for the EU to include registration of statelessness in the Common European Asylum System. Another focus point for the EU is to encourage the Member States to eliminate certain conditions in national safeguards that provide citizenship to stateless persons. Furthermore, the EU should encourage those Member States that are as yet not a party to accede the 1954 and 1961 Conventions related to statelessness. Finally, the EU must focus more at the root causes of statelessness worldwide and deal with it in EU foreign policy, because statelessness is a returning problem when new conflicts arise.

List of Abbreviations

CEAS	Common European Asylum System
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CFREU	Charter of Fundamental Rights of the European Union
CoE	Council of Europe Convention
CRC	Convention on Rights of the Child
CVRS	Civil registration and vital statistics
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ECN	European Convention on Nationality
EMN	European Migration Network
ENS	European Network on Statelessness
EU	European Union
ICCPR	International Covenant on Civil and Political Rights
OHCHR	Office of the High Commissioner for Human Rights
RI	Refugee International
UBR	Universal Birth Registration
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNHR	United Nations Human Rights – Office of the High Commissioner
US	United States of America

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Introduction

In 2014, the UN High Commissioner for Refugees (UNHCR) stated that *'Undocumented and with no proof of their nationality, many Syrian refugee children face a dangerous and uncertain future due to the risk of statelessness'* (Albarazi & van Waas, 2015, p. 5).

Statelessness is a global problem, which affects ten million people worldwide (UNHCR, n.d.). Last year, the UN refugee agency estimated that 680,000 people in Europe do not have a nationality. (UNHCR, n.d.). Furthermore, relevant to this dissertation, the UN also estimated that every 10 minutes a stateless child is born around the world (UNHCR, 2015). This dissertation focuses at statelessness among children born to Syrian refugees in the European Union (hereafter EU). Childhood statelessness among Syrian refugees is an almost invisible problem, which is overshadowed by the more general issue of very large number of Syrian refugees, both within and outside the EU. It results from several factors: discriminating laws on nationality for Syrian women, discriminatory or wrong implementation of international agreements into Syrian laws on nationality, lack of birth registration in host countries and fear of prosecution among Syrian parents when registering their child, for example at a Syrian embassy (Lynch & Teff, 2009).

However, since the early 20th century the worldwide international community has made some efforts in reducing statelessness by creating international legal frameworks, with which party states have to comply. Until now, the efforts of the EU to reduce statelessness have been very limited and there is at present no legally binding policy/regulation for its Member States (Swider, 2014). As a result, the problem with childhood statelessness in the EU is still complex and affects many children. Based on the number of Syrian refugees inside and outside Europe, it is estimated that tens of thousands of their children are stateless (van Waas, No Child Should be Stateless, 2015).

Aim and Scope

This dissertation aims to analyse the current situation and the causes of statelessness among children from Syrian refugees. The final aim of this dissertation is to examine what kind of role the EU can play to reduce statelessness among children within her territory, such as creating a European common policy or improving other tools.

The main question of the dissertation is; *'What can the European Union do to reduce statelessness among children from Syrian refugees in the EU?'*

In order to obtain structured and clear information to answer the main research question, this question is divided into five subquestions:

- ❖ What is statelessness?
- ❖ Which international legislative frameworks (related to nationality, refugees and statelessness) to prevent statelessness have been implemented?
- ❖ What are the strengths and weaknesses of these existing frameworks?
- ❖ Why are children still born stateless within the EU?
- ❖ How can the EU reduce statelessness among children from Syrian refugees (create a common policy framework)?

Limitations

One of the limitations to the research in this dissertation is the fact that childhood statelessness is barely discussed by scholars. In addition, non-governmental organisations and international and national institutions do not know the exact number of children of Syrian refugees who are born stateless in EU. Furthermore, this dissertation only focuses at childhood statelessness among Syrian refugees.

Structure

The structure of this dissertation is as follows: it starts with the methodology of the research, followed by literature review on the definition of stateless persons and the existence of childhood statelessness in the 21st century. Chapter I explains the concept of statelessness and its causes and consequences. In Chapter II worldwide international as well as European and/or EU regulations concerning nationality, statelessness and refugees in the 20th and 21st century are analysed. The final chapter III describes the political causes that create statelessness among children of Syrian refugees born or staying in the EU. It also discusses the current and potential role of the EU and the solutions for the EU to reduce childhood statelessness, based on expert opinions.

The dissertation continues with conclusions and recommendations and provides a list of references. The relevant appendices are provided at the end of the dissertation.

Methodology

General

Several books have been used to gain insight on how to apply potential research methods. The book *Research Methods of Business Student*, written by Lewis, Sanders and Thornhill (2012), explains the research methods and the acquisition of primary and secondary data. For historical analyses, the book *The Essential Guide to Doing Your Research Project*, has been consulted 'to collect, review, interrogation and analysis of various forms of data in order to establish facts and draw conclusion of past events' (O'Leary, 2013, p. 252). In addition, the book *Qualitative Interviewing: The Art of Hearing Data* (Rubin & Rubin, 2012) has been used to create interview questions and to execute a correct qualitative interview.

Methods

This dissertation uses the explanatory method to study the issue of childhood statelessness among Syrian refugees in order to explain the different relevant factors. Therefore, qualitative research is applied to understand 'the subjective and socially constructed meaning expressed by those who take part in research about the phenomenon being studied' (Lewis, Saunders, & Thornhill, 2012, p. 546). Quantitative research methods have been applied very limitedly because data on childhood statelessness in the EU are scarce.

Primary data - 'data collected specifically collected for the research project' (Lewis, Saunders, & Thornhill, 2012, p. 678) - have been obtained through an interview with an expert (see 'Interview' below).

Several sources have been used for the collection of secondary data, which means 'raw data and published summaries' (Lewis, Saunders, & Thornhill, 2012, p. 304). These include; official documents of the United Nations, international policy and legislature documents (conventions), books, professional journals, papers and reports (about statelessness). This has been important to answer the research question and subquestions in order 'to produce reliable and valid data in an unbiased way' (Lewis, Saunders, & Thornhill, 2012, p. 211).

Interview

More in-depth information (primary data) in order to gain a better understanding of childhood statelessness among Syrian refugees has been obtained through a qualitative interview with a field expert. The qualitative interview was conducted with Mrs Laura van Waas, co-director of the Institute Statelessness and Inclusion (a non-profit organisation). She worked for several years at

UNHCR and obtained her PhD on the subject statelessness. The list of questions was sent on beforehand to Mrs Van Waas and the interview was conducted via Skype. In addition to the predefined questions, the interview was held in a responsive way, which means *'that the researchers respond to and ask further questions about what they hear from the interviewees rather than rely exclusively on predetermined questions'* (Rubin & Rubin, 2012, p. 15). The interview questions and the transcript of this interview are included in Appendices VI and VII.

Ethics

Ethics includes the appropriate behaviour (respect privacy and rights) towards human beings who are a participant in the dissertation (Lewis, Saunders, & Thornhill, 2012). Therefore, the researcher signed the Student Ethics Form (see appendix IV) to confirm understanding the research ethics, which means to have *'responsibility for the dignity, respect, and welfare of respondents, both mentally and physically'* (O'Leary, 2004, p. 52). Mrs van Waas, the expert who was interviewed, has filled in the Informed Consent Form (see appendix V). She also gave permission to record the interview and to the use of her full name in this dissertation.

Literature Review

The topic of statelessness has been very limitedly discussed by scholars, policy makers and politicians in the last fifty years. This is even more true for childhood statelessness. Only a few scholars and international institutions have addressed the problem of childhood statelessness in the 21st century.

Defining the concept of statelessness

In order to understand statelessness, the concept of statelessness must be defined. According to Bhabha (2011), there are two categories of statelessness: *de jure* stateless and *de facto* stateless persons. The first group exists of persons who have no legal nationality, which means persons without a nationality of any country. The second group contains persons who have no “effective” nationality, which means persons who do have a nationality, but are not legal in the host country due to the fact that they are undocumented. In both categories there is an absence of legal identity (Bhabha, 2011).

After the Second World War, the international community regarded *de facto* stateless persons to be in the same group as refugees (The Equal Right Trust, 2010). Therefore, the 1951 Convention Relating to the Status of Refugees was established to protect refugees and *de facto* stateless (UNHCR, 2011). For the first time, a legal basis was developed to protect refugees, when they are in fear of being prosecuted, based on their religion, race, nationality etcetera (UNHCR, 2011, p. 3).

De jure statelessness was seen as a different issue, which was tackled in the 1954 UN Convention (The Equal Right Trust, 2010). It defines a stateless person (Article 1) as follows; ‘a person who is not considered as a national by any State under the operation of its law’ (UNHCR, 2014, p. 6). Collins and Weissbrodt (2006) discuss that the definition of statelessness within the 1954 Convention should be extended with the *de facto* statelessness definition because the definition “excludes those persons whose citizenship is practically useless or who cannot prove or verify their nationality” (Collins & Weissbrodt, 2006, p. 251). As a result, these individuals who technically still have a nationality, are not able to acquire the benefits and security of that particular country, and therefore are at danger (Collins & Weissbrodt, 2006).

Childhood statelessness

In 1961, the Convention on the Reduction of Statelessness was established. Wakelin (2012) describes that the objectives of the 1961 Convention were set to avoid statelessness, and by this he means reducing the amount of stateless people worldwide. He adds that the Convention has a

special focus on childhood statelessness, because it obligates participants to provide citizenship to newly-borns in their territory (Wakelin, 2012). Another important principle is that the Convention obliges participants to form safeguards in their nationality laws (UNHCR, n.d.).

In 1989, the United Nations Convention on the Rights of the Child was the first international agreement that focused on children's rights. Article 7 is the most important principle in relation to childhood statelessness; *The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents* (UNHCR, 1989, p. 3). However, van Waas (2015) argues in the European Network on Statelessness report "*No Child Should be Stateless*" that childhood statelessness still exists in Europe. This results partly from a lack of birth registrations and from incorrect implementation of safeguards in the national laws in these European countries. The same author discusses another factor that effects childhood statelessness. Some EU countries are not a party of the 1954 Convention or the 1961 Convention (van Waas, No Child Should be Stateless, 2015). Gyulai (2012) agrees and adds that the EU Member States, who are a party, often do not ratify the Conventions. Furthermore, she states that from her point of view the main problem of childhood statelessness in the EU is that it has not been discussed at the level of the institutions (Gyulai, Statelessness in the EU Framework for International Protection, 2012).

Chapter I Statelessness

This chapter will clarify the concept of statelessness, which is known as an invisible problem in the international community. The first paragraph defines the concept of statelessness based on international legal frameworks. In this paragraph, the two types of statelessness will be explained. In addition, this paragraph discusses the thoughts of the important philosopher and political thinker Hannah Arendt, who experienced statelessness during and after the Second World War. Paragraph 1.2 presents an analysis of the various causes that create stateless persons. In the final paragraph 1.3 the consequences of being stateless are explained.

1.1 Defining Statelessness

The 1954 Convention relating to the Status of Stateless Persons is the only international agreement that created a standard of treatment specifically for stateless persons in order to protect this vulnerable group (UNHCR, 2012). It defines a stateless person (described in article 1 (1) of the Treaty) as ‘a person who is not considered as a national by any State under the operation of its law’ (UNHCR, 2014, p. 6). Furthermore, it is a legally binding definition that obligates states who approved the convention to implement regulations into their national law. In 2012 the International Law Commission of the UN has decided that the definition of stateless persons in Article 1(1) of the 1954 Convention is included in customary international law, therefore, obligated for party states (UNHCR, 2012). Since the Second World War, stateless persons have been divided into two categories; “*de jure*” and “*de facto*” statelessness (The Equal Right Trust, 2010). The differences and consequences of these two definitions will be explained in the next subparagraph.

1.1.1 De jure and de facto statelessness

Statelessness is divided into two categories. *De jure* stateless persons have no legal nationality, which means persons without a nationality of any country. *De facto* stateless persons have no “effective” nationality, which means persons who have a nationality, but are not legal in the host country due to the fact that they are illegal or undocumented. In both categories there is an absence of legal identity (Bhabha, 2011). The distinction between these two groups is due to developments in the 20th century. After the Second World War, the international community regarded *de facto* stateless persons to be in the same group as refugees. Consequently, *de jure* statelessness was seen as different. Therefore, the 1954 UN Convention aimed at safeguarding *de jure* statelessness, because the 1951 Convention Relating to the Status of Refugees only secured the rights of *de facto* stateless people (The Equal Right Trust, 2010). As a result, persons who

comply with Article 1 (1) of the 1954 Convention are often described as *de jure* stateless persons, but this exact definition has not been used in the 1954 Convention (UNHCR, 2012).

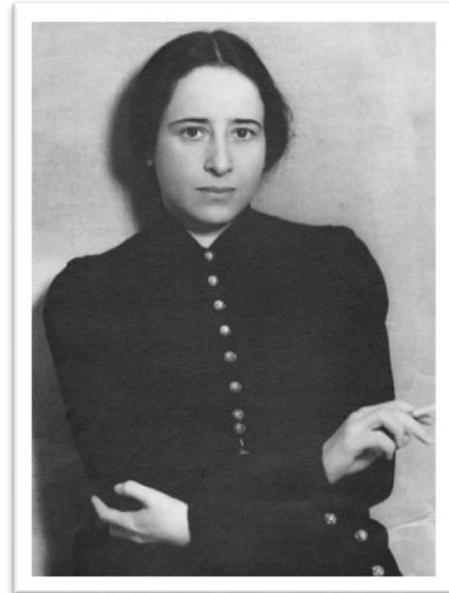
Legal scholars (such as the rapporteur of the UNHCR Carol A. Batchelor¹) argue that the concept of statelessness should include more than only *de jure* statelessness (Collins & Weissbrodt, 2006). They also claim that the definition of statelessness in the 1954 Convention is too limited and restricted and should include *de facto* statelessness. This is due to the fact that the definition 'excludes those persons whose citizenship is practically useless or who cannot prove or verify their nationality' (Collins & Weissbrodt, 2006, p. 251). As a result, these individuals who technically still have a nationality are not able to acquire the benefits and security of that country and therefore are at danger (Collins & Weissbrodt, 2006). The authors claim that the definition of statelessness within the 1954 Convention should be extended with the *de facto* statelessness definition, cited as follows; '*Persons who are de facto stateless often have a nationality according to the law, but this nationality is not effective or they cannot prove or verify their nationality. De facto statelessness can occur when governments withhold the usual benefits of citizenship, such as protection and assistance, or when persons relinquish the services, benefits, and protection of their country. Put another way, persons who are de facto stateless might have legal claim to the benefits of nationality but are not, for a variety of reasons, able to enjoy these benefits, They are, effectively, without a nationality*' (Collins & Weissbrodt, 2006, pp. 251-252).

The reality is more complicated than the (theoretical) difference between *de jure* and *de facto* statelessness. The Equal Right Trust argues that all refugees are either *de facto* or *de jure* stateless persons, but not all *de facto* stateless persons are refugees (The Equal Right Trust, 2010, pp. 52-53). Their report also mentions that the UNHCR has observed that most stateless persons are not necessarily refugees. Therefore, the limited definitions of *de jure* and *de facto* statelessness and the insufficient implementation of the refugee and statelessness conventions into national laws prevents stateless people from being adequately protected in a host country (The Equal Right Trust, 2010).

¹ (Batchelor C., 1995)

1.1.2 Hannah Arendt – “the right to have rights”

Hannah Arendt was one of the most important philosophers and political thinkers of the last century (see picture 1) (Benhabib, 2005). She came from a well-educated Jewish family in Germany. In 1933, she fled Germany without any travel documents, because of her political standpoint (Hayden P. , 2008). Arendt lived for a couple of years in Paris, but then had to flee from France without any travel documents to the US in 1936 (Sontheimer, 2006). She lived a dangerous and uncertain life because she was stateless for eighteen years. In 1951, Arendt obtained US citizenship. Hayden (2008) argues that her experiences made Arendt realize the hazardous fate stateless people have, if they do not



Picture 1. Hannah Arendt in 1933
Source: google.pictures.com

obtain security from a modern nation state during and after the Second World War (Hayden P. , 2008). Arendt described statelessness as; ‘the loss of nationality status, was tantamount to the loss of all rights. The stateless were not only deprived of their citizenship rights; they were deprived of any human rights’ (Benhabib, 2005, p. 2). Blitz and Sawyer (2011) stated that in Arendt’s point of view statelessness consists of three losses and each loss has a vigorous effect on a stateless person (Blitz & Sawyer, 2011).

1. Loss of a home

The loss of home stands for; ‘the loss of the entire social texture into which they were born and where they established for themselves a distinct place in the world’ (Blitz & Sawyer, 2011, p. 50).

2. Loss of government protection

The second loss means when citizens are leaving their homes and lose their citizenship. They are not being protected by any nation state.

3. Loss of fundamental rights

This is the case when persons cannot enjoy the benefits of freedom and justice of their home country as a result of exclusion. In Arendt’s point of view, this is also called the loss of ‘right to have rights’ (Blitz & Sawyer, 2011).

Arendt also claimed that statelessness will remain a problem in the 21st century, if there is “political evil” (Benhabib, 2005, p. 2). Arendt uses this expression to explain the powerful role of the national institutions, which can exclude certain cultural/ ethical groups (Hayden P. , 2009).

However, not only states are the problem in keeping persons stateless. In the next paragraph, the causes of statelessness will be explained.

1.2 Causes of Statelessness

There are several causes that create *de facto* stateless persons at birth or in later life. These include arbitrariness and discrimination, and they have a major effect in making or maintaining people stateless (Institute on Statelessness and Inclusion, 2014). The different causes will be explained in the next subparagraphs.

1.2.1 State succession

State succession, as defined by the Council of Europe (hereafter CoE), is '*the replacement of one State by another in the responsibility for the international relations of territory*' (Council of Europe, 2006, p. 3). In other words, state succession happens when a nation state separates from another state and becomes independent, or when a nation state is divided into several new nation states. In both situations, people will be affected as a result of new nationality laws of the successor states. Also the re-definition of who is a national of that particular state will exclude certain groups, based on cultural, ethnical or religious aspects (Institute on Statelessness and Inclusion, 2014).

1.2.2 Conflict of nationality laws

Statelessness is also caused by the different nationality laws of nation states (Weis, 1979). Each country has different conditions on how to acquire a nationality (UNHCR, n.d.). The nationality laws are divided into two categories; the *jus soli* (by birth on territory) and the *jus sanguinis* (by bloodline) (UNHCR, 2010). These categories may create difficulties when obtaining a nationality and may keep people stateless. (Weis, 1979) Moreover, the categories are often opposed to the universal right to nationality of newborn children. To better understand this problem, the three situations of statelessness among newborns is explained;

- First situation; when a child is born in a state (which has the *jus sanguinis* law), but her/his parents are born in another country (which has the *jus soli* law) the child will have a higher chance of becoming stateless.
- Second situation; when a child is born from stateless parents, the child will also often be stateless in countries with the *jus sanguinis* law.
- Third situation; an additional problem exists in about 25 countries worldwide with *jus sanguinis* law and a double standard, where mothers cannot transmit their nationality to their child. If the father is a non-citizen or absent, the newly-born child will often be stateless (UNHCR, 2010) (Institute on Statelessness and Inclusion, 2014).

1.2.3 Discrimination factors in nationality law

Discrimination is an important aspect in nationality laws of nation states. In several countries, citizens can lose their citizenship, for example because they lived in another country for a long period of time. Furthermore, states can also withdraw citizenship (without any reason) by changing the nationality law, which results in making certain minority groups stateless (UNHCR, n.d.). For example, Syrian Kurds are originally from Kurdistan, but that country does no longer exist since the 1960's. Due to the different ethnicity – the Syrian authorities do not regard them as Syrians - they cannot obtain the Syrian nationality (van Waas, Interview Dissertation, 2016). Nation states often use biased conditions to define who has the right to their citizenship and who does not, based on ethnicity, race, religion and language (UNHCR, n.d.). These excluded groups often are minority groups within the nation states, such as Roma's in East European Member States of the EU (Institute on Statelessness and Inclusion, 2014).

1.2.4 Administrative barriers and lack of documentation

Statelessness is often created by states who fail in accurately implementing the regulations of the approved conventions on reducing statelessness. This creates gaps in their legal framework on nationality and may induce statelessness (van Waas, No Child Should be Stateless, 2015). This is partly due to discriminating factors towards ethnic and religious minorities, for example when they have to provide identification documentation. Nevertheless, states have the responsibility to protect these minorities or stateless persons against discriminating and arbitrary factors (Institute on Statelessness and Inclusion, 2014). Another problem is that stateless persons often do not obtain the required documentation, because it gets lost, is stolen or withdrawn. Some stateless persons produce false documents in order to enter another country. This also creates problems in obtaining an identity or nationality (UNHCR, 2010).

1.3 Consequences of statelessness

Stateless persons have to face several consequences when they cannot prove their identity or citizenship (Swider, 2014). Certain basic rights of stateless persons in the host country are often refused (Vonk, Vink, & de Groot, 2013). These basic rights include the right to travel, access to healthcare and education, housing, employment and so forth (Swider, 2014). In addition, because of less access to basic rights, stateless persons have a higher risk at detention (UNHCR, 2010). Furthermore, stateless people without identification papers may fall into the hands of traffickers. Especially women and girls, who have a lower chance of obtaining citizenship (see subparagraph 1.2.2), risk to be persuaded into these illegal practices (Vonk, Vink, & de Groot, 2013).

1.4 Chapter Conclusion

Two categories of statelessness exist, *de facto* and *de jure*, and they require different legal approaches to be solved. Current definitions of *de jure* and *de facto* statelessness may be too narrow for adequate protection of stateless people. States often fail in accurately implementing the regulations of the conventions on refugees and statelessness into their legal frameworks. Therefore, stateless persons (especially *de facto*) are having difficulties in obtaining security or a nationality in their host country.

Furthermore, statelessness is also caused by a variety of political factors. People may become stateless as a result of state succession when they do not fit in the (new) definition of who is a national of that particular state. Discriminating factors in national laws on nationality can also lead to statelessness, for example among certain cultural, ethnical or religious minority groups or in situations where only fathers can transmit the nationality to their child. This also leads to problems with nationality when these persons flee to a host country.

The consequences of statelessness are difficulties in obtaining citizenship, less access to basic rights, a higher risk at detention and getting into contact with illegal practices such as traffickers. According to Hannah Arendt, stateless people not only lose their citizenship rights, but also their human rights.

The specific problem of statelessness among children of Syrian refugees will be explained in chapter III.

Chapter II The International Legal Frameworks

The objective of this chapter is to review the content and scope of various international human right agreements that cover the issue of nationality and statelessness. Chapter II is divided into chronological order (paragraph 2.1 and 2.2) and into thematic order (paragraph 2.3 and 2.4). Paragraph 2.1 describes the international framework concerning nationality before the Second World War. Paragraph 2.2 covers the international legal frameworks and the first steps to secure human rights after the Second World War. An analysis of the international legal frameworks related to refugees and stateless persons, including the two most important United Nations treaties on the prevention on statelessness, is presented in paragraph 2.3. The final paragraph 2.4 will explain childhood statelessness and children's' right to a nationality.

2.1 Before the Second World War

The concept of nationality was first developed during the French Revolution (1789 - 1799). Following the French Revolution, nation states were created with an ideological concept of national citizenship (Rogers Brubaker, 1989). In the 19th century, countries had to cope with different nationalities within their territory, which was partly due to new methods of transport that allowed people to travel faster and further away. In addition, the colonial settlement and the territorial expansion of the United States (hereafter the US) influenced people to migrate to another country. This created a new modern form of mass migration between 1846 and 1914. Almost 30 million migrants moved to America from Europe and this migration flow was unrestricted for decades. According to Bundy (2016); *'the most important paper carried by the immigrant was not a passport or identity document but a steamship ticket'*. (Bundy, 2016, p. 5) However, this changed at the beginning of the 20th century, when the US together with other states in Europe started to control their immigration, because they wanted to know who might enter on what rights and what terms. This change in border control, quotas and even tests on literacy **were** increased due to the First World War (1914-1918) and the Russian Revolution of 1917. This created the first modern refugee crisis with five million refugees in Europe in the period 1914 - 1922 (Tomushcat, 1995).

After the First World War, institutions were established to manage the stateless migrants (Bundy, 2016). One of the most important international institutions of that time was The League of Nations (founded in 1919) whose main aims were the preservation of peace and security worldwide (Tomushcat, 1995). In the following year, The League of Nations assigned a High Commissioner for refugees, the scientist, polar explorer, diplomat and humanitarian Fridtjof Nansen. His main task was to help the five million refugees after the First World War to return to

their homes or to become a legal resident in their host country. However, Nansen recognised the problem with the absence of internationally recognised identification papers. Therefore, he created the “*Nansen passport*”, which was the first legal tool for the international protection of refugees (UNHCR, n.d.).

The Hague Convention concerning Certain Questions Relating to the Conflict of Nationality Laws in 1930, directed by the League of Nations during the Conference of Codification of International Law, was the first multilateral treaty in the sphere of nationality and will be explained in the next subparagraph (Weis, 1979).

2.1.1 The Hague Convention of 1930

This Convention on Certain Questions Relating to the Conflict of Nationality Laws (which was a part of The Hague Convention in 1930) was a milestone in recognising the problem of nationality in international law (Weis, 1979). Nonetheless, the challenging barriers were the diverse legislations of nation states and this Convention, therefore, tried to regulate the problematic issue of nationality (Dhokalia, 1970). It aimed at eliminating certain situations of statelessness and double nationality (League of Nations, 1930). The idea was that every country must provide individuals with a nationality as a diplomatic protection (Dhokalia, 1970). However, this is not possible when an individual has double nationality and holds citizenship of another country, as described in Article 4 of the Convention (Kivisto & Faist, 2010). The first article describes the exclusive authority of nation states in correlation with nationality, within the following criteria;

Article 1

It is for each State to determine under its own law who are its nationals. This law shall be recognised by other States in so far as it is consistent with international conventions, international custom, and the principles of law generally recognised with regard to nationality².

In addition, it was the first time that the nationality of children was discussed at an international level. Article 12 of the Convention describes that when a child is born on the territory of the nation state it does not automatically get the nationality of that state. It only provides nationality when the child cannot obtain the nationality of his parents. This Convention was focused on reducing dual nationality (League of Nations, 1930).

² (League of Nations, 1930)

The Convention was signed by 27 nation states and was agreed and approved by 13 nation states (Weis, 1979). It included 31 articles in total; the first 17 were the essential regulations in relation to nationality. The Convention came into force on the first of July 1937. However, the Convention was unsuccessful, because it did not function effectively (Dhokalia, 1970).

❖ *Protocols*

During the Conference for the Codification of International Law, three special protocols were adopted to rebuild the nation states after the First World War. These were; Special Protocol Relating to Military Obligations in Certain Cases of Double Nationality, the Protocol Relating to a Certain Case of Statelessness, and the Special Protocol concerning Statelessness. Only the Special Protocol Concerning Statelessness did not come into force, because only nine states approved the protocol, when at least ten countries were required. (Weis, 1979) However, this Special Protocol did still contribute to solving the refugee crisis in Europe after the First World War.

2.2 After the Second World War

The memory of the unbelievable massacres and damages of the Second World War inspired to building a transnational organisation that could resolve international conflicts, provide an area for discussion between member states, and most importantly, prevent war worldwide. This transnational organisation is the United Nations (hereafter UN), which is the most important organisation in the development of human rights nowadays (Nickel, 1987).

2.2.1 Universal Declaration on Human Rights of 1948

The founders of UN believed that reducing the likelihood of war is only possible if the violation of human rights is stopped on an international level (Nickel, 1987). Therefore, the Universal Declaration on Human Rights (hereafter the UDHR) was drafted by the Commission on Human Rights, "*which would guarantee rights for every individual everywhere*" (United Nations, n.d. para. 1). The UDHR Framework includes 30 articles, that describe the basic legal protection for each individual in the area of political and civil rights, but also the right to education and security (Nowak, 2015). The UDHR was adopted by the United Nations Assembly on the 10th of December in 1948 (United Nations, n.d.).

Furthermore, The UDHR also guarantees citizenship and underlines that no nation state can withdraw the nationality of an individual, as described as in the following article;

Article 15

(1) Everyone has the right to a nationality.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality³

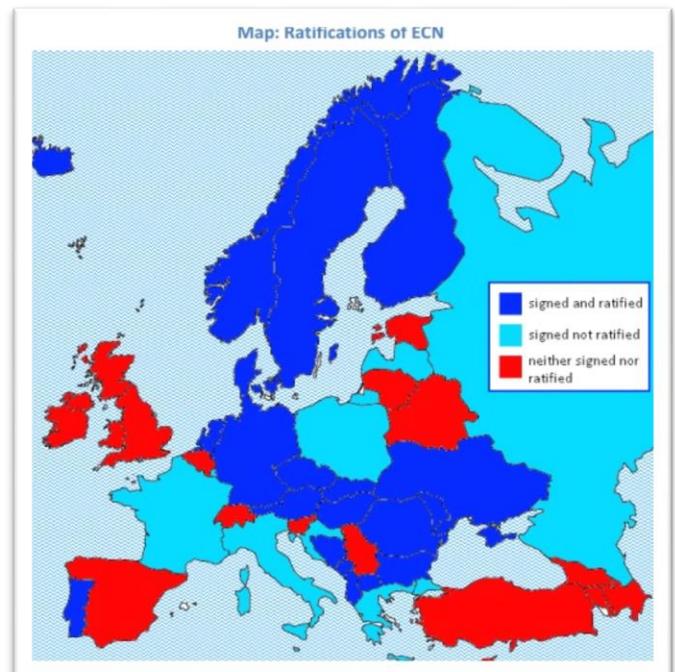
It is important to note that the UDHR is not legally binding, therefore it does not have legal obligations for nation states. Nonetheless, the Declaration presents various principles and rights that compose human rights standards protected by other international instruments, which are legally binding (e.g. The International Covenant on Civil and Political Rights), to ensure the implementation and protection of these principles and rights. However, at the moment more (nation) states are taking adoption of the Declaration as a binding national regulation into consideration (UNHR, 2016).

In 1949, the Council of Europe was established to preserve peace in Europe, based on the values of human rights, democracy and the rule of law (Council of Europe, n.d.). Therefore, the Council of Europe initiated the European Convention on Human Rights and Fundamental Freedoms (hereafter ECHR) to protect these values among its members (Council of Europe, 1950).

2.2.2 European Convention on Nationality of 1997

The Council of Europe experienced difficulties with different nationalities over more than thirty years (Council of Europe, 1997). This was partly due to the fact that the Soviet Union collapsed when the Cold War ended and inhabitants risked becoming stateless as a result of state succession (Bhabha, 2011).

The European Convention on Nationality (ECN) was adopted by the Council of Europe in 1997. The Convention was designed for member states and non-member states of the CoE. Twenty of the 29 states signed and ratified the ECN (see picture 2) (Council of Europe, n.d.).



Picture 2. Ratifications of ECN
Source: EUDO.Citizenship.eu

³ (Roosevelt, 2001, p. 5)

Furthermore, the Convention embodied the international legal principles and rights that applied to all aspects regarding nationality. Therefore, the ECN is the most significant regional legal basis on nationality (Pilgram, 2011). For that reason, the Convention has formed principles and regulations concerning nationality, which European states have to adopt in their internal law to prevent cases of statelessness, as described in Article 4 (see below) with a specific focus on statelessness and the right to have a nationality (Council of Europe, 1997).

Article 4 Principles

The rules on nationality of each State Party shall be based on the following principles:

- a) everyone has the right to a nationality;*
- b) statelessness shall be avoided;*
- c) no one shall be arbitrarily deprived of his or her nationality*
- d) neither marriage nor the dissolution of a marriage between a national of a State Party and an alien, nor the change of nationality by one of the spouses during marriage, shall automatically affect the nationality of the other spouse ⁴.*

The aim of the ECN is to simplify obtaining a new nationality and regaining the previous one and that to ensure that no Member State can retract the nationality unless there is a justifiable motivation. The Member States are obligated to ensure that the application procedures for nationality are non-discriminatory. Furthermore, each Member State shall not discriminate between its nationals, based on sex, religion, race, colour or ethnic origin. This also applies to individuals, who obtain their nationality at birth or in later life. Moreover, every individual state can request and safeguard the stateless persons on his territory, as described in Article 5 of the ECN (Council of Europe, 1997).

The ECN also provides certain obligations regarding the possession of a nationality. Article 6 (2) part a and b, explains the children's right to a nationality. When a child is born within the borders of a European state and cannot obtain a nationality through its parents, the nationality of that country should be given (Council of Europe, 1997). However, seven EU Member States are not a party of the ECN (see picture 2).

2.3 Refugees and statelessness

The refugee flows of people during and after the First World War were almost nothing compared to the number of refugees during and especially after the Second World War. After the Second World War, there were already over 40 million refugees in Europe (Chalabi, 2013). Article 14 of

⁴ (Council of Europe, 1997, p. 5)

the UDHR recognised that every individual has the right to seek asylum in other nation states, but it is not a legally binding principle (UNHCR, 2010). Therefore, in 1950 the United Nations established the United Nations High Commissioner for Refugees (hereafter UNHCR) to assist in aid to refugees. The UNHCR drafted several international treaties to avoid statelessness and enabled applications for new citizenship (Blitz & Sawyer, 2011). The 1951 Convention relating to the Status of Refugees became the first convention on international law regarding refugees and will be explained in the next subparagraph (Chalabi, 2013).

2.3.1 Convention Relating to the Status of Refugees in 1951

The Convention Relating to the Status of Refugees was adopted by a diplomatic conference in Geneva in 1951. The Convention was the first legal basis for the protection of refugees (UNHCR, 2011). It defines a refugee in Article 1a (2) as *'a person who is outside his or her country of nationality or habitual residence; has a well-founded fear of being persecuted because of his or her race, religion, nationality, membership of a particular social group or political opinion; and is unable or unwilling to avail him- or herself of the protection of that country, or to return there, for fear of persecution'* (UNHCR, 2011, p. 3). Individuals who comply with this definition are allowed to the rights and also assured of the obligations of the Convention. Moreover, the Convention established several rights and obligations that the Member States have to adopt. The key principle of this Convention is Article 33 (1) *non-refoulement*, that describes that no refugee can return to their home country if his/her life would be in danger based on discriminatory factors (such as race, religion, nationality, membership of a social or political group). Other important rights of the 1951 Convention comprise the right of every refugee to public education (Article 22) and the right to have identification papers in their host country if they do not obtain a legal document. These rights apply to all refugees (UNHCR, 2011). All EU Member States have acceded this Convention (see appendix I).

❖ Protocol relating to the Status of Refugees of 1967

In 1967, the 1951 Convention was amended in the Protocol relating to the Status of Refugees and will be explained briefly (UNHCR, 2011). The Refugee Protocol is an independent document and was established to obtain worldwide coverage in the aid of refugees (UNHCR, 2001) The 1951 Convention only focused on refugees fleeing war zones or national political reforms within Europe and only focused on events before 1 January 1951 (as described in Article 1). The 1967 Protocol changed the geographical and time-based boundaries of the 1951 Convention. This made it possible to help all kind of refugees all over the world. Furthermore, the Protocol obligates nation states to fulfill all requirements of the 1951 Convention (UNHCR, 2010). Most of the nation states, who are a member of the UN, have acceded the 1951 convention and the 1967 Protocol. In this

way, member states confirmed that both agreements are important to the transnational refugee protection system (UNHCR, 2001).

The next two subparagraphs outline the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, which are the two most important international Conventions relating to Statelessness. These Conventions are supplemented by the international human rights treaties (e.g. UNHR) and regulations in relation to the right to have a nationality (UNHCR, n.d.).

2.3.2 Convention Relating to the Status of Stateless People in 1954

The 1954 Convention was the first international treaty that was adopted to legalize and improve the legal status of stateless people (UNHCR, 2001). It created a legal framework to assure that people, who are stateless, can benefit from a limited set of human rights. The Convention also established a legal definition of a stateless person as described in Article 1 of the Convention as *'someone who is not recognized as a national by any state under the operation of its law'*. In basic words, this means that a stateless person does not have a nationality of a nation state (UNHCR, n.d.). Individuals who meet the criteria of stateless persons are entitled to the rights as set down by this Convention, because it states that stateless people have the same rights (e.g. the right to public education, housing and freedom of religion) as nationals. The most important key principle of the 1954 Convention are the right to identification documents (Article 27, which is the same description as in the 1951 Convention) and travel documents (Article 28) for stateless people. Article 28 describes that each nation state can provide travel documents to every stateless person. This applies to both stateless persons, who are lawfully staying in their country, as well as to unlawfully stateless persons in their country, who do not possess travel documents from their home country or their host country (UNHCR, 2014). The Convention is a legally binding document for its members to protect stateless persons (Massey, 2010). However, four EU countries are not a party of the 1954 Convention, such as Cyprus, Malta, Estonia and Poland (see appendix II) (The Independent, 2016).

An update of the 1954 Convention was held in November 2014, when the UNHCR presented a new Campaign to End Statelessness in 10 years. 83 State parties joined this Convention (UNHCR, n.d.).

2.3.3 Convention on the Reduction of Statelessness in 1961

The main aim of the Convention is the avoidance of statelessness at birth by obligating nation states to guarantee citizenship (UNHCR, 2014). This Convention is different from the 1954 Convention, because it does not provide rights (Wakelin, 2012). It is *'the primary international*

legal instrument aimed at the prevention of the creation of statelessness' (Batchelor, 2002, p. 7). It established an international legal charter to assure that every individual has the right to nationality (UNHCR, n.d.). Wakelin (2012) shows that the Convention presents three basic principles to avoid future situations on statelessness and to reduce current statelessness;

- It provides citizenship to individuals in a country, if they are born stateless in that country or if the person is born stateless elsewhere, but lives in that country.
- It provides security to individuals who lost their nationality or whose citizenship was withdrawn, and therefore became stateless.
- It requests protection of stateless people when these people are moving to another country (Wakelin, 2012).

In addition, the 1961 Convention is a legally binding document for its members (Massey, 2010). Therefore, states are obligated to provide safeguards in their nationality laws to avoid statelessness at birth and later in life (UNHCR, n.d.). However, nine EU countries; Cyprus, Estonia, France, Greece, Luxembourg, Malta, Poland, Slovenia and Spain are not a party of the 1961 Convention (see appendix III) (UNHCR, 2015).

The 1961 Convention was also updated in November 2014 with a presentation by the UNHCR of a new Campaign to End Statelessness in 10 years. 61 State parties joint this Convention. (UNHCR, n.d.)

2.3.4 Council of Europe Convention on the avoidance of statelessness in relation to State succession in 2006

The Council of Europe Convention on the avoidance of statelessness in relation to State succession was established as a result of the fact that statelessness was still one of the main universal problems regarding nationality in Europe and was mainly caused by state succession (Edwards & van Waas, 2014). The earlier 1997 European Convention on Nationality only included principles, but did not present precise regulations on nationality in relation to state succession. Therefore, in 2006 the CoE Convention contained specific rules to ensure the right to nationality in various situations resulting from state succession. The most important key principle, relevant to this dissertation, is described in article 10 (Council of Europe, 2006);

Article 10 – Avoiding statelessness at birth

*A State concerned shall grant its nationality at birth to a child born following State succession on its territory to a parent who, at the time of State succession, had the nationality of the predecessor State if that child would otherwise be stateless*⁵.

Furthermore, Article 5 states the responsibilities of a successor state in relation to providing nationality and part 2-b explicitly describes that a child born in a European country that has ratified this convention must obtain the nationality of that country (Council of Europe, 2006). Only four EU Member States have acceded this Convention, which are Austria, Germany, Hungary and The Netherlands (Council of Europe, 2016).

2.4 Childhood statelessness

Childhood statelessness is recognised in the 1961 Convention on the Reduction of Statelessness and in 2006 CoE Convention on the avoidance of statelessness in relation to state succession, as already discussed in subparagraphs 2.3.3 and 2.3.4. It is also addressed in the International Covenant on Civil and Political Rights (ICCPR) and the Convention on Rights of the Child (CRC), that are both focused at children and their right to nationality (Jansen & van Waas, 2014). These are discussed below.

2.4.1 The International Covenant on Civil and Political Rights 1966

The ICCPR was the first treaty that clearly described that every child has the right to a nationality (Jansen & van Waas, 2014) and that every child should be registered after birth as soon as possible (UNHR, 1966). Both are presented in Article 24;

Article 24

- (1) *Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.*
- (2) *Every child shall be registered immediately after birth and shall have a name.*
- (3) *Every child has the right to acquire a nationality*⁶.

2.4.2 Convention on Rights of the Child in 1989

Nowadays the right to a nationality for children is securely established as a universal right, as described in the Convention on Rights of the Child (CRC) of 1989 and several other human right

⁵ (Council of Europe, 2006, p. 4)

⁶ (UNHR, 1966)

conventions (van Waas, No Child Should be Stateless, 2015). The CRC has been ratified by all EU Member States (UNHCR, 2016). However, childhood statelessness still exists and has impact on a child's development, because they have limited access to healthcare or other basic needs, such as education. The CRC therefore obliged nation states to have the best interest of the child in mind, because children should not be stateless for an extensive period of time. The principles of the CRC describe that these children must have the possibility to obtain a nationality at birth or shortly afterwards (van Waas, No Child Should be Stateless, 2015).

Article 7 is the most essential principle of the 1989 Convention;

Article 7

- (1) The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.*
- (2) States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under relevant international instruments in this field, in particular where the child would otherwise be stateless⁷.*

Moreover, Article 8 of this CRC states that nation states are required to provide protection and assistance to help these children. It also describes the right to maintain and protect their identity and also nationality (van Waas, No Child Should be Stateless, 2015).

Apart from that, when children lose their nationality due to actions of their parents (for example, fleeing a war), the nation states have to provide the child with a nationality. Due to the non-discrimination principle of various international treaties (such as the Convention on the Elimination of All Forms of Racial Discrimination), nation states are obligated to prevent statelessness of children whose parents are stateless as a result of discriminatory factors. In addition, Article 9 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) describes the equal right of women and men to transmission of nationality to their children (van Waas, No Child Should be Stateless, 2015).

In 2012, the UN adopted an essential new resolution focused on the right to nationality among children and women. It focused on international legal rules, but included an essential principle to reduce the risk of statelessness; the right to free birth registration (Thomasen & Kohn, 2012).

⁷ (UNHCR, 1989, p. 3)

2.5 Chapter conclusion

Despite the establishments of several international legal frameworks related to statelessness and nationality, there is still a shortfall in the prevention of statelessness.

The party states of the 1954 Convention and the 1961 Convention are obliged to implement the regulations of these conventions, but gaps still exist in nationality laws and protection measures for stateless persons. Furthermore, not all EU Member States are a party of the 1954 (4 EU Member States) and the 1961 Convention (9 EU Member States). Moreover, seven EU Member States are not a party of the 1997 ECN, which focuses at providing a nationality to stateless persons within Europe. Furthermore, only four EU Member States have acceded with the 2006 CoE Convention on the avoidance of statelessness in relation to state succession.

At this moment, no general EU policy exists that contributes to reducing (childhood) statelessness on their territory. It is therefore still difficult for stateless persons and children born or staying in the EU to obtain a nationality.

Chapter III Why are Syrian refugee children growing up stateless in Europe?

This chapter will explain why these Syrian children are born stateless in the EU. The first paragraph clarifies the problem with nationality and statelessness before the conflict in Syria. In paragraph 3.2 the different safeguard laws (to protect these children) and the implementation of birth registration in the EU Member States are discussed. The last paragraph 3.3 explains the limited role of the EU in relation to statelessness.

3.1 Before the conflict in Syria

Statelessness among minorities groups existed already in Syria before the recent conflict. As explained in subparagraph 1.2.3, “Syrian” Kurds lost their nationality in the 1960’s and became *de jure* stateless. When these people flee from the conflict, they encounter difficulties in obtaining identification papers for themselves and for their children born on European territory (Gyulai, Statelessness in the EU Framework for International Protection, 2012).

Another problem is the double standard in Syrian nationality law, as a result of which women do not have equal rights compared to men in transmitting nationality to their children (van Waas, Interview Dissertation, 2016). Syrian children will therefore become stateless in the following cases;

1. The father is stateless.
2. The father does not have Syrian nationality and cannot transmit nationality to his newborn child.
3. The father is unknown or not married to the mother of the child.
4. The father does have Syrian nationality, but is not capable to recognize his child and thereby transmit nationality to his child, because he died, is missing or fighting, he abandoned his family and/or the documentation on his nationality is incomplete (UNHCR, 2015).

Both groups, whether *de jure* stateless, because they lost their nationality, or *de facto* stateless, because they lost their identification papers or the documentation is incomplete, cannot transmit their nationality to their children, wherever they are born (van Waas, Interview Dissertation, 2016).

3.2 Effects of the conflict in Syria in the EU

As a result of the conflict in Syria and the extended refugee crisis, the problems with nationality among Syrian refugees including children are moving towards other (EU) countries (van Waas,

Interview Dissertation, 2016). However, several other political factors create statelessness in the EU, which are discussed in the next paragraphs. The problems related to statelessness among children of Syrian refugees do not present a minor issue. Around 60,000 babies in Turkey (van Waas, No Child Should be Stateless, 2015, p. 26) and 50,000 in Lebanon (Segers, 2015) are estimated to be stateless. As of May 5th 2016, around 2,7million registered Syrian refugees are staying in Turkey (UNHCR, 2016) and as of March 31st 2016 around registered 1,1 million Syrian refugees in Lebanon (UNHCR, 2016). According to the UNHCR, 500,000 registered Syrian refugees have arrived by sea in Europe in the year 2015 and the first four months of 2016 (UNHCR, 2016). Based on the percentages of stateless Syrian children in Turkey (2,2%) and Lebanon (4,5%), it can be assumed statelessness affects 11,000 – 22,500 Syrian children being born or staying in Europe. However, the total number of Syrian refugees in Europe may be higher than the number of registered refugees and consequently the number of stateless Syrian children in Europe may also be higher than the numbers mentioned above.

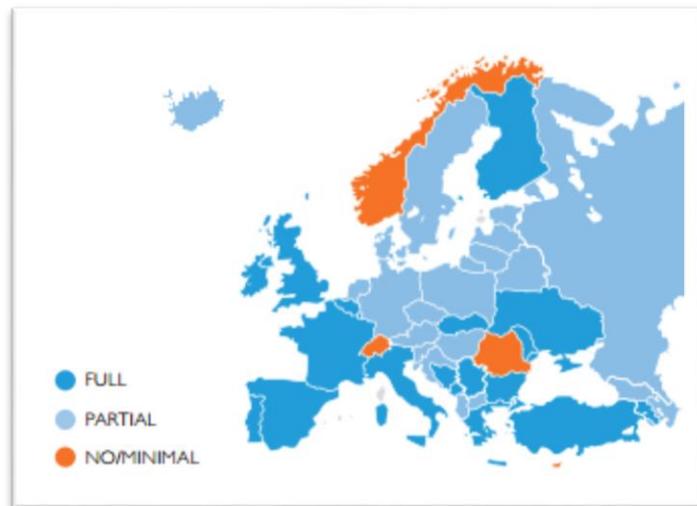
3.3 Different safeguard systems in the EU

The European Network on Statelessness (ENS) stated that the 1961 Convention on the Reduction of Statelessness and the 1997 European Convention on Nationality are the most important instruments for a European legal framework in relation to nationality and childhood statelessness in the EU. However, these Conventions allow countries a certain freedom in implementing the safeguards into their national laws. European countries have two options to implement the safeguards;

1. Grant nationality unconditionally to children, who will be otherwise stateless, when they are born the host country.
2. Provide nationality to potentially stateless children born in the host country through a simple unrestricted application procedure, which include a set of conditions (that are described in the 1997 ECN and 1961 Conventions) (van Waas, No Child Should be Stateless, 2015).

Article 7 of the CRC states that a child must not be left stateless for an extended period of time; '*a child must acquire a nationality at birth or as soon as possible after birth* (UNHCR, 1989, p. 3)'. In case a country chooses option 2, the procedure must be available almost immediately after birth or as soon as possible, but at least before the child becomes 18 years old (van Waas, No Child Should be Stateless, 2015). Furthermore, the child has to comply with the conditions regarding residence (for example, three years of residence in that particular country) of the safeguard, but when they travel or are sent to another country, the application procedure for obtaining a nationality in the first country is withdrawn (van Waas, Interview Dissertation, 2016).

Nearly all European Member States have implemented safeguards in their framework to guarantee nationality for newborns in their territory, who would otherwise be stateless (for example, when the parents are stateless). However, many of these safeguards are inadequate and often do not comply with the principles of international laws (Jansen & van Waas, 2014). For that reason, the ENS conducted a country study in 2015 on how European countries are providing safeguards. The three types of safeguards are full, partial and no or minimal safeguard. Picture 3 presents the situation in Europe in 2015. 21 states provide full safeguard, 20 states have a partial safeguard, while four states have no or only minimal safeguard (van Waas, No Child Should be Stateless, 2015). When focusing at European Member States, 12 states have full safeguard, 14 states have partial safeguards and 2 states (Cyprus and Romania) have no or minimal safeguard. The next subparagraphs will clarify the different types of safeguards.



Picture 3. Different safeguard laws
Source: Network on Statelessness

3.3.1 Full safeguard

The meaning of full safeguard is that; *'the law contains a safeguard that covers all otherwise stateless children born in the territory and is in compliance with international law'* (van Waas, No Child Should be Stateless, 2015, p. 12). Most of the European states provide a full safeguard. However, as mentioned above, European countries have two options when implementing full safeguards. In case of the second option, difficulties in obtaining citizenship may arise. For example, Finland only grants citizenship to a stateless child born on Finnish territory, if it cannot obtain the nationality of another country at birth nor has a secondary right to citizenship of any other foreign state. In France and Italy, citizenship is only guaranteed when the child cannot obtain or is not permitted to obtain the nationality from one or both parents (according to the nationality law of the parents' home countries). A statelessness determination procedure must then be carried out to prove the statelessness of parents and/or child.

3.3.2 Partial safeguard

The meaning of Partial safeguard is that; *'the law contains a safeguard for otherwise stateless children born in the territory that falls short of the standard set by international law, due to additional procedural and/or substantive requirements that do not comply with the 1961 Convention or ECN, such that not all otherwise stateless children benefit'* (van Waas, No Child Should be Stateless, 2015, p. 12). This creates various problems, which can be divided into three deficiency categories. It is important to note that some countries have more than one deficiency.

1. Safeguards with too limited timeframes

The first category implies that these countries mostly implement safeguards correctly, but the timeframe for application of nationality is shortened (van Waas, No Child Should be Stateless, 2015). According to the 1961 Convention, children can apply until they are 18 years old and the application procedure cannot end before they are 21 years old (UNHCR, 2014). However, in Estonia and Latvia children can only apply, when they are under 15 years old. In Austria, the application procedure is limited till the age of 20 years. When the timeframe is too short, the parents of the childrens have to take the lead in obtaining nationality for their children. Often these children remain stateless, because parents take no action (van Waas, No Child Should be Stateless, 2015). Syrian children, who are born in these countries, have the chance to obtain nationality only if they apply within the set timeframes.

2. Safeguards limited by one or both parents being of unknown nationality/citizenship or stateless

Certain EU Member States (e.g. Croatia, Poland, Hungary) guarantee their nationality to newborns on their territory, who would otherwise be stateless because one or both of their parents are of unknown citizenship or stateless (*de jure* stateless). This indicates that these states are more focused at this problem than other states and eager to help these children by providing them with a nationality. However, these countries only guarantee nationality to children with parents without or of unknown nationality. Children who are stateless due to other factors, for example because the parents lost their identification papers (*de facto* stateless) cannot obtain a nationality. This situation is contradictory to the principle of non-discrimination in international legal frameworks.

Furthermore, the parents in these countries have to do a statelessness determination procedure as well in order to be official recognised as a stateless. Thereafter, the child can apply for a nationality. However, most of these procedures are not functioning effectively. Both situations create gaps in nationality laws of EU countries (van Waas, No Child Should be Stateless, 2015). In particular for Syrian refugees who lost their identification papers

but do have a nationality, this means that their children, born in these countries, cannot obtain nationality.

3. Safeguards contingent on residence status

The third category contains those countries that only give a child access to a nationality if the child is born on their territory and would otherwise be stateless. However, this depends on the residence status of the child and/or parents. Ten EU Member States (such as Netherlands, Germany, Denmark) demand some type of residency from the child and/or parents, which is not contradictory with international law. Some states even demand a permanent residence status (van Waas, No Child Should be Stateless, 2015).

Nevertheless, the requirement to prove legal residence on the territory is a challenging problem (van Waas, No Child Should be Stateless, 2015). This means for the Syrian refugees and their children born in these countries, it is almost impossible to obtain nationality.

3.3.3 No or minimal safeguard

The meaning of no or minimal safeguard is that *'the law does not contain a safeguard specifically directed towards ensuring that otherwise stateless children born in the territory acquire a nationality. There may be other provisions facilitating access to nationality (e.g. facilitated naturalization for stateless)'* (van Waas, No Child Should be Stateless, 2015, p. 12). Only two EU countries provide no or minimal safeguard; Cyprus and Romania. Romania is sustaining gaps in its laws, due to the fact that they are directly violating the international requirements. Cyprus is the only Member State that has legislative problems and therefore does not have a safeguard to guarantee that children can obtain nationality. Children from Syrian refugees have no possibility of obtaining a nationality in these countries.

The most important consequence of all safeguards is that the children are often identified as "nationality unknown" instead of stateless. This excludes these children from applying for a nationality in a number of EU countries and they are therefore left *'in limbo'* (van Waas, No Child Should be Stateless, 2015, p. 17). This is also valid for children from Syrian refugees.

Therefore, the problem with childhood statelessness in the EU is far more complex and affects more children than only those who have stateless parents (van Waas, No Child Should be Stateless, 2015). Sadly, due to the different set of safeguards, the EU allows childhood statelessness to continue on her territory (Jansen & van Waas, 2014).

3.4 The absence of birth registration systems

One of the major causes of statelessness among children from Syrian refugees is the absence of birth registration. In many countries, birth registration does not automatically guarantee a nationality to a child, it only confirms the child's nationality. Furthermore, most countries do not execute this procedure correctly, with the result that these children remain unrecognised (UNHCR, 2010). In addition, children without a birth certificate cannot enjoy access to healthcare and education as described in the international conventions. According to Mrs van Waas (2016) this is, together with the issue of the different safeguards as described in paragraph 3.2, one of the main causes of childhood statelessness in the EU (van Waas, Interview Dissertation, 2016).

3.4.1 Essential birth certificate

It is a fundamental right to be registered at birth, as described in Article 7 of the CRC (van Waas, No Child Should be Stateless, 2015). However, statelessness may start immediately after birth. As mentioned before, when a child has parents who cannot prove their nationality of their home country or residence (*de facto* stateless), the local authorities can reject the application for a birth certificate (Vonk, Vink, & de Groot, 2013). This is even more true for *de jure* stateless (no legal nationality) persons, for whom it is more difficult, if not impossible, to obtain a birth certificate for their children (Bhabha, 2011). An additional challenge is that parents have to pay excessive fees or have to travel long distances to apply for a birth certificate (Vonk, Vink, & de Groot, 2013).

It is important to note that a child without a birth certificate is more vulnerable, because it will probably experience major difficulties in obtaining a nationality. When there is no birth certificate, children cannot benefit from public services, such as public education and healthcare (Vonk, Vink, & de Groot, 2013). Furthermore, the lack of opportunities and the feeling of not belonging somewhere plays an important role in the development of stateless children (van Waas, No Child Should be Stateless, 2015). Children and their parents may suffer and it may bring poverty, due to that the fact these parents cannot participate in society, for example, start a business or open a bank account. Stateless persons are at a higher risk to be involved in the illegal market to obtain fake identities or documents to create a better life (Vonk, Vink, & de Groot, 2013).

3.4.2 Universal Birth Registration

In 2012, the Universal Birth Registration working group (hereafter UBR) has been established. The aim of the UBR is to support birth registrations and vital statistics (CRVS) worldwide. The CRVS is a technical system of the UNHR, that records and documents vital events, such as birth, marriage etcetera. These registration systems assist children in obtaining a legal identity and eventually a

nationality. *'With a legal identity a child has already improved access to essential services, such as healthcare, education and social welfare'* (Child Rights Connect, n.d. para. 1).

The EU has supported these UN registration programmes with financial and technical tools to improve civil registration systems (van Waas, No Child Should be Stateless, 2015). However, the EU is more involved in this topic in relation to countries outside the EU, due to the fact that statelessness is more recognised in these countries (van Waas, Interview Dissertation, 2016).

3.4.3 International or Syrian birth certificate

Refugees International (RI) has examined the application procedure of the international or Syrian birth certificate in Turkey. RI states that there are still gaps in the procedure, as a result of which the children remain stateless. The application for these birth certificates has to take place within 30 days after birth, otherwise the refugees have to pay extra fees. Furthermore, the parents/mothers need to have a marriage certificate and the fathers' birth certificate to be able to apply for the international or Syrian birth certificate. As mentioned before, many of these women, who gave birth to a child, lost their identification papers and/or cannot prove the identity and nationality of the husband/partner, which makes it almost impossible to apply for a birth certificate in Turkey. However, RI mentions that most of the Syrian refugees are not aware of this application procedure (Reynolds & Duoos, 2015).

A stateless person can receive an identification document/card from the UNHCR, which declares that he/she is a legitimate refugee and is protected under international law (Sengupta & Saad, 2015). However, according to van Waas (2016), these documents cannot replace the official birth certificate, because that needs to be given by the state where the child is born or the state of Syria has to recognise the child as a Syrian national. It is the responsibility of a state to provide nationality (van Waas, Interview Dissertation, 2016).

3.4.4 Fear and future problems

A complicating factor is that parents may be too scared to register their children (for example at a Syrian embassy), because they do not want to draw attention to themselves (Lynch & Teff, 2009). When they have fled to another country, they may fear prosecution or other consequences (Reuters, 2016). Non-recognition of nationality can also have major consequences in the future. If parents want to return to their home country with their children, it is difficult to do so without the correct identification papers of the children (Gyulai, Remember the forgotten, protect the unprotected, 2009). It is in particular hardly possible to provide the Syrian citizenships to stateless Syrian children born on EU territory without a birth certificate. Van Waas (2016)

underlines that if children of Syrian refugees, who are born in the EU, would like to return to Syria, Syrian documents can only be provided to these children if documents are available about the Syrian father (van Waas, Interview Dissertation, 2016). For Syrian refugee children born in a foreign country, birth registration is a significant tool in obtaining a birth certificate and eventually a legal identity (Bhabha, 2011).

3.5 The limited role of EU

As discussed in chapter II, the role of the EU in reducing statelessness is very limited, which is partly due to the fact that four EU member states are not a party of the 1954 Convention (Gyulai, Remember the forgotten, protect the unprotected, 2009). Until now, no specific regulation on statelessness exists within the EU legal framework. The Lisbon Treaty mentions statelessness in the EU, but discusses only limitedly how this problem should be resolved (Gyulai, Statelessness in the EU Framework for International Protection, 2012).

3.5.1 Current EU regulations

The European Convention on the protection of Human Rights and Fundamental Freedoms (ECHR) is one of the most important instruments in Europe to protect the human rights in European countries (European Parliament, 2016). It is a legally binding document for European states to comply with. It obligates the European states to assure human rights not only to their citizens but also to non-citizens within their territory (European Union Agency for Fundamental Rights, 2010). However, the ECHR did not include the right to nationality or the reduction of statelessness in their principles (Council of Europe, 1950).

Focused on the EU, the Charter of Fundamental Rights of the European Union (hereafter CFREU) is the most important EU human rights agreement, which is inspired by the rights of ECHR and the Universal Human Rights agreements (European Union Agency for Fundamental Rights, 2010).

However, the CFREU only describes (in Title III) that Member States have to grant specific protection of children's rights (European Parliament, 2016) without specific instructions. It states that '*children shall have the right to such protection and care that is necessary for their well-being and that the best interest of the child must be a primary consideration in all actions relating to children*', but it does not include any requirements for ensuring the right to nationality (van Waas, No Child Should be Stateless, 2015, p. 9). In Title V 'Citizen's Rights' the right to EU citizenship is explained, which means that when a person is a national of a particular Member State, he/she automatically has EU citizenship (van Waas, No Child Should be Stateless, 2015).

This Charter is the only legally binding EU instrument regarding human rights for the Member States and EU Institutions. However, although the Member States are obligated to accede with the Charter, they only have to do so when implementing EU laws (European Union Agency for Fundamental Rights, 2010). The Charter became legally binding when the Lisbon Treaty (also known as the Treaty of Functioning of the European Union) came into force in 2009 (European Union Agency for Fundamental Rights, 2010). The Lisbon Treaty was the first European treaty that discussed the treatment of stateless persons, as described in Article 67(2) TFEU as follows; *'stateless persons shall be treated as third-country nationals'* (European Union, 2012, p. 73). This article describes that every stateless persons the right to the same treatment as immigrants in an EU country, which is related to the basic conditions of 1954 Convention (Swider, 2014).

As a result of the increasing migration flows to Europe in the past years, the EU has established the Common European Asylum System (hereafter CEAS) in 2012. This system is founded to guarantee the international refugee rights and to protect asylum seekers and refugees in the Member States. Moreover, it describes minimum conditions and measures for asylum applications (Open Society Foundation, 2015). Unfortunately, the CEAS is mainly focused at migration and refugees, but does not include anything on how to identify stateless people or how to cope with the specific situation of these people (van Waas, Interview Dissertation, 2016).

3.5.2 More attention is needed to reduce statelessness

Gyulai (2012) describes that in the EU statelessness is mainly linked to (forced) migration. According to him, this explains why it is not discussed at EU level to develop a policy for international protection. Lack of awareness about statelessness in EU countries is probably the main reason. The EU Member States that are party to the 1954 Convention (all but four) often do not translate the obligations regarding protection of stateless people into measures (Gyulai, Statelessness in the EU Framework for International Protection, 2012). Swider (2014) agrees that although some new developments at EU level are taking place, these present *'not yet a sign of a commitment to tackle statelessness at the EU level'* (Swider, 2014, p. 8).

3.5.3 Potential solutions

Several scholars, such as Van Waas (2016), state that statelessness has to be included in the CEAS/European Asylum Policy (van Waas, Interview Dissertation, 2016). However, only Hungary is promoting an initiative for a more comprehensive CEAS. If this initiative is approved, then a Statelessness Directive should be established, which can allow the principles of the international agreements to become a legally binding obligation towards the Member States. This can lead to a

European protection system for stateless persons (Gyulai, Remember the forgotten, protect the unprotected, 2009).

Mrs van Waas (2016) mentioned during the interview that the European Migration Network (hereafter EMN) is asking the Member States to fill in a question list, with questions such as; 'What are you doing when stateless persons arrives in your country?'. The EMN is making an inventory of good practices, which could be the basis for a potential European policy on statelessness. However, according to van Waas (2016) we are still far away from a common policy, but it may ultimately bring some positive changes in the acquisition of nationality through better determination of statelessness and improved access to residence status. Furthermore, certain conditions in national safeguards (see paragraph 3.2) should be banned to make it easier for stateless people to obtain a nationality and more attention must be paid to differences in the nationality laws of Member States (van Waas, Interview Dissertation, 2016).

In addition, van Waas (2016) argued that the EU should be more involved and organised in addressing the root causes of statelessness worldwide (biased laws, double standards and the withdrawal of nationality of minorities groups). This should be dealt with in the EU foreign policy. Otherwise similar problems with statelessness, as the ones that the EU is facing today, will return in the future when new conflicts arise (van Waas, Interview Dissertation, 2016).

3.6 Chapter conclusion

The EU has a limited role in reducing statelessness among children of Syrian refugees, due to the fact that the responsibility for this resides at national level of the Member States. Moreover, most EU countries have implemented the safeguards laws incorrectly and differently. Even in case of a full safeguard, parents may have to follow a determination procedure to prove the statelessness of themselves and/or their child. When partial safeguards have been put into place, nationality applications may be hindered by too limited timeframes, having to prove citizenship when identification papers are lost (*de facto* statelessness) and/or the condition that a residence status has been granted. In two EU countries (Cyprus and Romania) almost no safeguards exist.

A particular problem for children of Syrian refugee children is the absence of birth registration, when they are born outside of Syria. In accordance with Syrian nationality laws, mothers do not have the same rights as fathers when they apply for Syrian nationality for their children. In case of an absent or stateless father, the newly-born child – whether in Syria or outside – will be stateless. Parents are also anxious to apply for Syrian citizenship outside Syria (for example at an embassy) out of fear for prosecution.

Potential solutions include registration of statelessness in the CEAS, which is at present not included in the registration of refugees and asylum seekers. Another potential solution is, since a common European policy on statelessness is still far away, to eliminate certain conditions in national safeguards that provide citizenship to stateless persons. Finally, the EU must focus more at the root causes of statelessness worldwide and deal with it in EU foreign policy, because statelessness is a returning problem when new conflicts take place.

Conclusion

The main objective of this research was to evaluate and answer the research question; *What can the European Union do to reduce statelessness among children from Syrian refugees in the EU?* As a result of the conflict in Syria, many Syrian citizens have fled their home country and search for protection in the European Union. Children from these Syrian refugees may become stateless as a result of several political causes. These causes can be found both at international and national level.

In the past, the international community has distinguished two categories of statelessness, *de facto* stateless (lost document – ineffective nationality) and *de jure* stateless (without legal nationality). The 1951 Convention regarded *de facto* stateless persons to be in the same group as refugees. The 1954 Convention included *de jure* statelessness, however the definitions of *de jure* and *de facto* statelessness can be too limited for an often more complex reality.

Stateless persons are having difficulties in obtaining security or a nationality in their host country. These persons may, without a nationality or birth registration/certificate, have limited access to essential human rights and public services, such as healthcare and education. Statelessness is caused by a variety of political and legal factors, such as state succession and discriminating factors in national laws on nationality. This can be valid for cultural, ethnical or religious minority groups or in situations where only fathers can transmit the nationality to their child (such as in Syrian law).

Not all EU Member States are a party of the relevant conventions. This is valid for the 1954 Convention (four EU Member States not a party) and the 1961 Convention, which obligates party states to implement safeguards (nine EU Member States not a party). This is also true for the 1997 ECN, which focuses at providing stateless people with a nationality in Europe, of which seven EU Member States are not a party. Furthermore, only four EU Member States have acceded the 2006 CoE Convention on the avoidance of statelessness in relation to state succession. The result is that EU countries often fail in accurately implementing the regulations of the conventions on refugees and statelessness into their legal frameworks. There is no general EU policy aimed at reducing statelessness within the Member States.

Focused on childhood statelessness in the EU, the safeguards implemented in the national laws of the Member States do not always make it easy for stateless children to obtain a nationality. Complicated procedures must be followed and timeframes for the procedures can be too limited.

An extra potential problem for stateless children of Syrian refugees is formed by the absence of birth registration when they are born outside Syria with an absent or stateless father.

It can be concluded that several political causes create childhood statelessness among children from Syrian refugees in the EU. To answer the main question regarding the efforts by the EU in reducing statelessness among children from Syrian refugees, several actions are possible. First, registration of statelessness must be included in the CEAS, which can lead to a European protection system for stateless persons. In addition, the EU should have more control over the nationality laws of its Member States and encourage all Member States to improve the safeguard systems in their laws to reduce childhood statelessness. Furthermore, the EU should encourage those Member States that are as yet not a party to accede the 1954 and 1961 Conventions related to statelessness.

In addition, the EU should be more involved in addressing the worldwide root causes, such as state succession, biased laws and withdrawal of nationality of minorities groups, which should be dealt with in the EU foreign policy. Ultimately, the EU should create a common policy to control the Member States on the implementation of international and European agreements and to reduce childhood statelessness on her territory.

Recommendations

- The EU should encourage its Member States (that are not a party yet) to accede the 1954 Convention Relating to the Status of Stateless People
- The EU should encourage all Member States to correctly implement the regulations and obligations of the 1954 Convention in their national laws
- The EU should encourage its Member States (that are not a party yet) to accede the 1961 Convention on the Reduction of Statelessness
- The EU should encourage all Member States to correctly implement the regulations and obligations of the 1961 Convention in their national laws
- The EU should encourage all EU Member States to improve the safeguard systems in their national laws to reduce childhood statelessness
- The EU should include a registration procedure for statelessness in the CEAS
- The EU should be more involved in addressing the root causes worldwide, which should be dealt with in their foreign policy
- The EU should create a common policy to control the Member States on the implementation of international and European agreements and to reduce childhood statelessness on her territory

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Appendices

Appendix I 1951 Convention relating the Status of Refugees ⁸ and the 1967 Protocol ⁹ signatories

EU Member States	Signature	Ratified (r), Accession (a) or succession (d)	1967 Protocol
Austria	28 July 1951	1 November 1954 r	5 September 1973 a
Belgium	28 July 1951	22 July 1953 r	8 April 1969 a
Bulgaria	x	12 May 1993 a	12 May 1993 a
Croatia	x	12 October 1992 d	12 October 1992 d
Cyprus (the)	x	16 May 1963 d	9 July 1968 a
Czech Republic	x	11 May 1993 d	11 May 1993 d
Denmark	28 July 1951	4 December 1952 r	29 January 1968 a
Estonia	x	10 April 1997 a	10 April 1997 a
Finland	x	10 October 1968 a	10 October 1968 a
France	11 September 1952	23 June 1954 r	3 February 1971 a
Germany	19 November 1951	1 December 1953 r	5 November 1969 a
Greece	10 April 1952	5 April 1960 r	7 August 1968 a
Hungary	x	14 March 1989 a	14 March 1989 a
Ireland	x	29 November 1956 a	6 November 1968 a
Italy	23 July 1952	15 November 1954 r	26 January 1972 a
Latvia	x	31 July 1997 a	31 July 1997 a
Lithuania	x	28 April 1997 a	28 April 1997 a
Luxembourg	28 July 1951	23 July 1953 r	22 April 1971 a
Malta	x	17 June 1951 a	15 September 1971 a
Netherlands (the)	28 July 1951	3 May 1956 r	29 November 1968 a
Poland	x	27 September 1991 a	27 September 1991 a
Portugal	x	22 December 1960 a	13 July 1976 a
Romania	x	7 August 1991 a	7 August 1991 a
Slovakia	x	4 February 1993 d	4 February 1993 d
Slovenia	x	6 July 1992 d	6 July 1992 d
Spain	x	14 August 1978 a	14 August 1978 a
Sweden	28 July 1951	26 October 1954 r	4 October 1967 a
United Kingdom	28 July 1951	11 March 1954 r	4 September 1968 a

⁸ (UN, 2016, p. 137)

⁹ (UN, 2016, p. 267)

Appendix II 1954 Convention relating to the Status of Stateless Persons ¹⁰ signatories

EU Member States	Signature	Ratified (r), Accession (a) or succession (d)
Austria	x	8 February 2008 a
Belgium	28 September 1954	27 May 1960 r
Bulgaria	x	22 March 2012 a
Croatia	x	12 October 1992 d
Czech Republic	x	19 July 2004 a
Denmark	28 September 1954	17 January 1956 r
Finland	x	10 October 1968 a
France	12 January 1955	8 March 1960 r
Germany	28 September 1954	26 October 1976 r
Greece	x	4 November 1975 a
Hungary	x	21 November 2001 a
Ireland	x	17 December 1962 a
Italy	20 October 1954	3 December 1962 r
Latvia	x	5 November 1999 a
Lithuania	x	7 February 2000 a
Luxembourg	28 October 1995	27 June 1960 r
Netherlands (the)	28 September 1954	12 April 1962 r
Portugal	x	1 October 2012 a
Romania	x	27 January 2006 a
Slovakia	x	3 April 2000 a
Slovenia	x	6 July 1992 a
Spain	x	12 May 1997 a
Sweden	28 September 1954	2 April 1965
United Kingdom (the)	28 September 1954	16 April 1959

¹⁰ (UN, 2016, p. 117)

Appendix III 1961 Convention on the Reduction of Statelessness ¹¹ signatories

EU Member States	Signature	Ratified (r), Accession (a) or succession (d)
Austria	x	22 September 1972 a
Belgium	x	1 July 2014 a
Bulgaria	x	22 March 2012 a
Croatia	x	22 September 2011 a
Czech Republic (the)	x	19 December 2001 a
Denmark	x	11 July 1977 a
Finland	x	7 Augustus 2008 a
France	31 May 1962	x
Germany	x	31 Augustus 1977 a
Hungary	x	12 May 2009 a
Ireland	x	18 January 1973 a
Italy	x	1 December 2015 a
Latvia	x	14 April 1992 a
Lithuania	x	22 July 2013 a
Netherlands (the)	30 Augustus 1961	13 May 1985 r
Portugal	X	1 October 2012 a
Romania	x	27 January 2006 a
Slovakia	x	3 April 2000 a
Sweden	x	19 February 1969 a
United Kingdom (the)	30 Augustus 1961	29 March 1966 r

¹¹ (UN, 2016, p. 175)

Appendix IV Student Ethics Form**Student Ethics Form**

Your name: A.C.M Teuben
Supervisor: Dhr. G. van Hengel

Instructions/checklist

Before completing this form you should read the APA Ethics Code (<http://www.apa.org/ethics/code/index.aspx>). If you are planning research with human subjects you should also look at the sample consent form available in the Final Project and Dissertation Guide.

- a. Read section 3 that your supervisor will have to sign. Make sure that you cover all these issues in section 1.
- b. Complete sections 1 and, if you are using human subjects, section 2, of this form, and sign it.
- c. Ask your project supervisor to read these sections (and the draft consent form if you have one) and sign the form.
- d. Append this signed form as an appendix to your dissertation.

Section 1. Project Outline (to be completed by student)

- (i) **Title of Project:**
The role of EU in reducing statelessness of Syrian refugee children.
- (ii) **Aims of project:**
To have more in-depth information about statelessness of Syrian refugee children within the European Union. In addition, what her point of view is in the role the EU in relation to childhood statelessness.
- (iii) **Will you involve other people in your project – e.g. via formal or informal interviews, group discussions, questionnaires, internet surveys etc. (Note: if you are using data that has already been collected by another researcher – e.g. recordings or transcripts of conversations given to you by your supervisor, you should answer 'NO' to this question.)**

YES NO

If no: you should now sign the statement below and return the form to your supervisor. You have completed this form.

This project is not designed to include research with human subjects . I understand that I do not have ethical clearance to interview people (formally or informally) about the topic of my research, to carry out internet research (e.g. on chat rooms or discussion boards) or in any other way to use people as subjects in my research.

Student's signature _____ - date _____

If yes: you should complete the rest of this form.

Section 2 Complete this section only if you answered YES to question (iii) above.

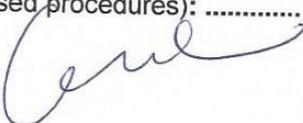
- (i) **What will the participants have to do? (v. brief outline of procedure):**
Answering my questions of my interview
- (ii) **What sort of people will the participants be and how will they be recruited?**
The participate is co-Director of the Institute on Statelessness and Inclusion.
- (iii) **What sort stimuli or materials will your participants be exposed to, tick the appropriate boxes and then state what they are in the space below?**

Questionnaires[]; Pictures[]; Sounds []; **Words** []; Other[].

(iv) **Consent:** Informed consent must be obtained for all participants before they take part in your project. Either verbally or by means of an informed consent form you should state what participants will be doing, drawing attention to anything they could conceivably object to subsequently. You should also state how they can withdraw from the study at any time and the measures you are taking to ensure the confidentiality of data. A standard informed consent form is available in the Dissertation Manual.

(vi) **What procedures will you follow in order to guarantee the confidentiality of participants' data?** Personal data (name, addresses etc.) should not be stored in such a way that they can be associated with the participant's data.

Student's signature:  date: 04-05-2016

Supervisor's signature (if satisfied with the proposed procedures):  date: 18-05-2016

Appendix V Informed Consent Form

- 1) Project Title ; The role of EU in reducing statelessness of Syrian refugee children.
- 2) Project Description ; The extended refugee crisis in Europe is threatened by an invisible problem of statelessness. Experts argue that in the future this will create a stateless generation. Last year, the UNHCR Refugee agency estimated that 680,000 people in Europe do not have a nationality. Moreover, every 10 minutes a stateless child is born around the world. This suggests that even today children in Europe are still born into statelessness. Furthermore, the international legal frameworks should guarantee that every child can obtain a nationality in various situations, which would make them otherwise stateless. Nonetheless, the European Network on Statelessness warned that many children in the EU are stateless, because of many factors (biased Syrian law, parents lost their identification documents, gaps and failure of implementation of international legal frameworks or discriminatory factors in the nationality laws of EU Member States) Therefore the central question of my dissertation is: *What can the European Union do to reduce statelessness among children from Syrian refugees in the EU?*

If you agree to take part in this study please read the following statement and sign this form.

I am 16 years of age or older.

I can confirm that I have read and understood the description and aims of this research. The researcher has answered all the questions that I had to my satisfaction.

I agree to the audio recording of my interview with the researcher.

I understand that the researcher offers me the following guarantees:

All information will be treated in the strictest confidence. My name will not be used in the study unless I give permission for it.

Recordings will be accessible only by the researcher. Unless otherwise agreed, anonymity will be ensured at all times. Pseudonyms will be used in the transcriptions.

I can ask for the recording to be stopped at any time and anything to be deleted from it.

I consent to take part in the research on the basis of the guarantees outlined above.



Signed: Laura van Waas

Date: 2 May 2016

Appendix VI Interview questions

Introduction:

Good morning Mrs. Van Waas, thank you very much for your time today. For my thesis, I would like to have some more in-depth information about statelessness among children from Syrian refugees. It is mainly focused on children born in the EU Member States, who cannot obtain nationality due to several factors. I would like to start with some procedural questions and thereafter the thesis questions.

Procedural questions:

1. Can I use your name in my dissertation?
2. Do you mind if I record this interview?

Dissertation questions:

3. Could you introduce yourself and tell me more about your job function?
4. Do you know how many children are born or entered the EU stateless?
5. What are the main factors that keep these children stateless?
6. What kind of measures are suggested to the EU to tackle this problem? (EU versus national law of Member States)
7. Other questions/issues that will be discussed.

This interview will be conducted via Skype.

Appendix VII Interview transcript

This interview with Mrs. van Waas was conducted via Skype on May 4th, 2016.

Introduction:

Annemieke: Good morning Mrs. Van Waas, thank you very much for your time today. For my thesis, I would like to have some more in-depth information about statelessness among children from Syrian refugees. It is mainly focused on children born in the EU Member States, who cannot obtain nationality due to several factors. I would like to start with some procedural questions and thereafter the thesis questions.

Van Waas: Yes, no problem.

Question 1: Can I use your name in my dissertation?

Van Waas: Yes, no problem. If you going to mention certain things, and you are referring to me, but you are not sure whether it is true or correct. You can always me email me to be sure. However, I think I am not going to tell you anything new that not has already been mentioned previously.

Question 2: Do you mind I record this interview?

Van Waas: No, no problem.

Annemieke: Ok, then I will now ask you the questions about the dissertation:

Question 3: Could you introduce yourself and tell me more about your job function?

Van Waas: Yes, my name is Laura van Waas, I am one of the two co-director of the Institute Statelessness and Inclusion. It is an institution, which exist for one and a half years. We are committed to fight against statelessness. Therefore we are especially focused on including statelessness as a human rights issue and by activating the international human rights system for stateless persons. Before that I worked a lot of years on statelessness. I have a PhD on this subject and I also worked at the UNHCR. So that's why my name is in my documents in relation to this subject.

Question 4: Do you know how many children are born or entered the EU stateless?

Van Waas: This is a question why I cannot help you with. Nobody knows, due to several reasons. First, it is difficult to determine when a child is stateless, there are several situations that a child from Syrian refugees are being at risk. However, it is difficult to determine to which situations these children do not obtain nationality. Apart from that, there is no much information and data tracked about these specific risk groups. For example; Syrian children from single refugee

mothers are stateless (you can only conclude in advance) we do not know how many children in includes. Because that is a figure that is never been tracked over the years.

Annemieke: Hence, you mean there are too many specific situations to keep track on these children? Because in Lebanon, they estimated 50.000 children from Syrian refugees are stateless. So in relation to EU, it could be possible to record, only in my opinion, due to the open borders it is more difficult.

Van Waas: The estimated numbers in Lebanon is a misconception of the situation, which in statelessness occurs. It is true that there are more or less 50,000 children of we called "*female headed households*". In this context there is a higher risk on statelessness, because of the children cannot prove they have Syrian father (which is needed to have access to a Syrian nationality). However, to conclude that all children are statelessness is actually not possible. Moreover, in most cases these children have the Syrian nationality, but they have difficulties with proving their nationality, especially in this moment with the conflict in their home country. Maybe in the future, this problem can be solved. However, the problem is partly relies on the misconceptions on concluding when somebody is stateless.

Annemieke: O, I did not know that. I understand what you mean, so the main problem in Lebanon is that these children have a Syrian nationality only not official. Due to the fact the mothers had to flee the war and lost their papers and the double standard in Syrian law.

Van Waas: Yes, hence, when you cannot prove your nationality is not the same as not in possessing a nationality. In my opinion, we need to see what is going to happen, suggest there is a post-conflict in Syria and it is active in ensuring that all these children obtain the Syrian nationality papers and recognised as Syrian citizens. Then the problem is already solved or is it limited to specific, difficult situations.

Question 5: What are the main factors that keep these children stateless? We already discussed this a little bit. Could you tell me again the factors and added with the new ones?

Van Waas: Yes, there are two causes created by their home country (Syria), which are some refugees were already stateless before the conflict. This means that these refugees do not have a nationality and cannot transmission nationality to their children, wherever they shall be born. The second problem is that the discrimination against women in providing nationality. As women you cannot transmission your nationality, when her man is unknown, died or other problems in obtaining nationality through the father of the child. Then children have a higher risk in statelessness. This was already a problem before the conflict in Syria, but now these problems are now moving towards other countries due to the flow of Syrian refugees.

Apart from that, there are problems with obtaining identity documents due to the lack of birth registration. Especially in the countries were the refugees are staying. This may result in non-

recognition of the link in obtaining nationality. For example; when a child is born in a refugee camp in Turkey, the birth is not registered, subsequently the family travels to Europe then in some point, for instance in 15 years in the future, there must be some effort undertaken to provide Syrian documents towards these children, if they find documents about the Syrian father. However, then it very difficult because then we don't know where the child was born, prove that these are the parents. This makes it very difficult when there is a lack of identification documentation. Furthermore, in countries were refugees arriving and children are born in their territory, we see a lack of safeguards against statelessness among children. Or these countries do not implemented the safeguards correctly. Thus in fact what should happen, when a child is born stateless in the Netherlands, he/she must obtain the Dutch identity. Thus, due to the fact that is not clear that these children are stateless and on the other hand there all kinds of conditions on obtaining the Dutch nationality, which often is not executed. Therefore the "safety net" is not always functioning and keeps these children stateless.

Annemieke: Ok, and also the procedure takes very long. I think, hereby these refugees do not understand that. Right?

Van Waas: Yes, true. For example; when a child is born stateless in the Netherlands, he/she has the right to Dutch nationality after three years of residence in the Dutch territory. However, if the family travels to another country or send back to Greece, then he/she does not meet the conditions on residence and the application in obtaining nationality and the "safety net" will be withdrawn. In more EU countries there all kinds of conditions in providing a nationality to a stateless child.

Annemieke: These conditions are the safeguards right?

Van Waas: yes, in these safeguards there are these extra conditions, which the child has to comply with. Thus more then only born stateless on the territory.

Question 6: What kind of measures are suggested to the EU to tackle this problem? (EU versus national law of Member States)

Van Waas: this is quite difficult question, because the EU is confined in proving nationality, arranging access to nationality is a jurisdiction, which lies on the Member States. Thus, to adjust the safeguards to reinforce them or removing certain conditions who are a barrier in providing nationality – the EU cannot do something about that. However, at the same time it is also the case that; for example; in the Netherlands, when a child is born stateless and at some point can apply for the Dutch nationality but it fails due to that the Netherlands acts in contravention of its own international obligations. Then the child has no access to a nationality but also not to the EU citizenship.

Therefore, this is pure a theoretical idea that one of the possibilities is that a child should be able to introduce a case at the Court of Justice of the EU. To say: I am EU citizen, because I am born on

your territory, otherwise I would be stateless and I am not recognised in that particular Member State. However, this subject is an invisible problem therefore there has been not any cases in this particular way. We would have to wait if this would be possible.

Annemieke: Ok, should a EU Policy not help these children and also stateless persons (older than 18)?

Van Waas: Yes, well, what the EU could do or actually must do is not specific focus on the acquisition or the controlling the access to a nationality, but controlling how the Member States are identifying stateless persons (especially in migration context) because there exist a common asylum and migration policy. However, this need to include part on statelessness, with a procedure to identify statelessness with a diligent manner to cope with these people. Thus, what you see now at the EU, there is more recognition for a policy in relation to the status and protection of statelessness within a migration context. This is something where the EU can interfere with. I can tell you, that carefully a start has been made by looking at the Member States already has done in this subject. The European Migration Network is working on this project by asking Member States to fill in a question list, such as; What are you doing when a stateless persons arrives in your country. They are looking at good practices. These would might be the basis for a potential policy. However, we are far away from this policy, but it can bring some positive changes in access to nationality. Because when it is better regulated on to determine statelessness and potential improving the access to residence status. Then certain barriers towards nationality are solved.

Annemieke: Ok, this is very clear. However, it would be a problem when the war is over children do not obtain a nationality from their home country or host country? Because then they cannot go return to their home country.

Van Waas: This is common among refugees scenario's, whereas families or groups having problems with returning to their home country in post-conflict. But the discrimination towards women and most people were already stateless before the conflict increased such risks.

Other important case for the EU, which is important to note, it that statelessness before the Syrian conflict and the discrimination against women in nationality law are major root causes that remains stateless among children from Syrian refugees in EU. This is the proof, that the EU should be more involved and strictly organized with addressing the root causes worldwide. Because when there is somewhere else a conflict, it has consequences in the EU (migration flows, statelessness). The EU should be more focusing on with these two factors but also on the nationality laws of Member States for these situations. And not only on these situations but also the Kurds in Syria are made stateless in the sixties (lost country) or other groups that are now fleeing their country. This should be dealt with in the foreign policy of the EU.

Question 7: I saw something in an newspaper, that the UNCHR is trying to create an international Syrian identification papers for Syrian children, who are stateless, in Lebanon. Do you think this would help?

Van Waas: I did not heard about this in context of this conflict. There are several projects based on providing identification documents for refugees in general. Furthermore, with the registration of refugees in Lebanon receive a UNHCR document as prove that they are refugees, which can serve as identification papers. Therefore children can go to the hospital and sign in for a school. The only problem is that these handed over documents of the UNHCR or other NGO, is that these documents cannot replace the official birth certificate (which is handed over by the state where the child is born). In context with the problem in Lebanon, it does not solve the problem when UNHCR is giving identification papers. Its only official when the state Syria is recognising the child and his/her birth. It is not replaceable, it is a function of the state.

Annemieke: Thank you again for your time and all the information. You have answered all my question. When I have any further questions I will contact you by email as we have agreed before.

Van Waas: Yes, fine. Thank you also. Good luck with your thesis!

Annemieke: Thank you and have a nice day. Bye.