



Ad-Hoc Query on the Palestinian's characterization as "stateless"

Requested by GR EMN NCP on 13th March 2015

Responses from Austria, Belgium, Croatia, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Portugal, Slovak Republic, Slovenia, Spain, Sweden and United Kingdom (23 in Total)

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1. Background Information

According to the Greek Nationality Code, an alien child born in Greek territory shall acquire the Greek nationality by birth, provided that such person does not acquire any foreign nationality by birth or is of unknown nationality. Under this condition, it is recently noted that minor children of Palestinians that have been born in Greece apply for the Greek citizenship as stateless persons, invoking their Palestinian origin as basic argument for statelessness, i.e. without having any official Greek or foreign document in which the child or the parent is explicitly stated as "stateless person".

The Citizenship Directorate of the Hellenic Ministry of Interior and Administrative Reform would like to know what the practice is in other Member States, as up to now there is no specific procedure regarding the handling of above mentioned cases.




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Questions:

1. The child of Palestinian people that is born in the territory of your State is entitled to acquire by law the citizenship of the State as "stateless"?
2. If yes:
 - a) Are there any prerequisites/required documents/special conditions that are taken into account? (e.g. specific type of residence permit of the parents, specific type of passport / travel document of the child or the parents, the parents' place of birth, the parents' period of residence in your country, official documentation of domestic / foreign / consular authorities on which the child or the parent is stated as "stateless", etc.)
 - b) Which law provides for above mentioned practice? (domestic law / international convention, etc.)




We would very much appreciate your responses by **31 March 2015**.

2. Responses



		Wider Dissemination?	
	Austria	Yes	Stateless people have access to the Austrian citizenship under the same conditions as other aliens. They can in particular benefit from right of residence for humanitarian reasons which may form the basis for settlement and later on obtaining citizenship. Stateless persons have a legal entitlement to the granting of citizenship under conditions laid down in Art. 14 Nationality Act 1985. These conditions are a 10 year lawful residence in the country and the absence of serious (criminal) offences. The application is possible within 2 years from the applicant's 18th birthday. Persons already born in Austria may apply for naturalization after 6 years of lawful and uninterrupted residence. If the submission of otherwise required documents (especially passport, birth certificate) is not possible, the authorities can refrain from this requirement. Source: Federal Ministry of the Interior
	Belgium	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Croatia	Yes	1. No.

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			In order for a Palestinian child born in the Republic of Croatia to be considered stateless the procedure would require, in keeping with the provisions contained in Article 7 of the Croatian Citizenship Act (Official Gazette, No. 53/91, 70/91, 28/92, 113/93 and 130/11), to indisputably establish that the child's parent/parents are of unknown citizenship, i.e. that they are stateless persons, which must be proven by relevant documentation (e.g. a travel document for stateless persons). <i>Source: Ministry of the Interior</i>
	Czech Republic	Yes	1. Generally the child born on the territory of the Czech Republic is entitled to acquire by law the citizenship only if he/she becomes stateless after the birth and both parents are stateless while at least one of the parents has valid residence permit for more than 90 days. 2. a) see 1. b) Domestic law.
	Estonia	Yes	Although the State of Palestine is not recognized the persons from Palestine are documented as citizens of Palestine. The right to obtain a residence permit in Estonia does not depend on the recognition of the state or the travel document however a person must have the right to enter the territory of Estonia (e.g. obtain visa). When a person is already legally residing in Estonia with a valid residence permit and a child is born, the child may obtain the residence permit based on general conditions for applying for residence permit in Estonia. It is not required to acquire the status of a person with undefined citizenship for the child however in case it is not possible to obtain document the child as a Palestinian citizen there is a possibility to issue an Alien's passport to a foreigner who holds a valid residence permit if it is proved that the alien does not hold a travel document issued by a foreign state and that it is not possible for him or her to obtain a travel document issued by a foreign state. According to the Identity Documents Act of Estonia in order for an alien's passport to be issued to a citizen of a foreign state, the foreigner shall submit the consent of a competent administrative authority of his or her country of nationality to the issue of an alien's passport to him or her, or prove that it is not possible to obtain the specified consent.
	Finland	Yes	1. A child acquires Finnish citizenship by birth if the child is born in Finland and does not acquire the citizenship of any foreign State at birth, and does not even have a secondary right to acquire the citizenship of any other foreign State. (Nationality Act Section 9 (4). A child who was born in Finland to parents with unknown citizenship is considered a Finnish citizen as long as he or she has not been established as a citizen of a foreign State. If the child has been established as a citizen of a foreign State only after he or she has reached the age of five, the child retains Finnish citizenship, however. (Nationality Act Section 12 (2). 2. The Finnish Immigration Service will determine citizenship status at the request of a public authority or the party, if the matter is of importance with regard to the existence of Finnish citizenship or some right or obligation related to it, the correctness of any entry in the public authorities' personal registers, the alien's residence in Finland or some other reason equivalent to these.

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			<p>Efforts shall be made to determine citizenship status of a person with unknown citizenship if his or her municipality of residence is in Finland. Citizenship status will not be determined if the person's identity has not been established in other respects, however. (Nationality Act Section 36)</p> <p>The determination of citizenship can become relevant in conjunction to an asylum application or the person can request the Finnish Immigration Service to determine his/her citizenship status.</p> <p>Citizenship status means present or former citizenship, statelessness or citizenship being unknown. Statelessness refers to a person not having the citizenship of any State. A person with unknown citizenship means a person for whom there is no information on citizenship or statelessness.</p> <p>When the citizenship status of a person is determined, the main aim is to establish if the person has the citizenship of a State (or States) or if he/she is stateless. The issue is examined through possible identity documents and through the own account by the person (national passport, alien's passport, other identity documents, place of birth, places of residence, language, present and former citizenships, the citizenships of the parents). Available nationality legislation and practice on the acquisition of citizenship in different States are used as information in the determination process.</p>
	France	Yes	<p>1. The French civil code indicates that "A child is French if born in France of stateless parents (...)". The French asylum authority (OFPRA) is competent for recognizing the stateless status.</p> <p>Regarding the Palestinian people, the judgement of the French Council of the State dated November 22, 2006, decided that a Palestinian person who is outside the UNRWA area can benefit from the 1954 Convention on Statelessness.</p> <p>In this condition, it is not necessary for a child born in France that his/her parents were officially recognized as stateless by the OFPRA. Indeed, based on the information provided by the Ministry of Justice (Office of Nationality), for a child born in France, whose parents are Palestinian, and even if they are not officially recognized as stateless, the civil code indicates that "A child is French if born in France of alien parents and to whom the transmission of the nationality of either parent is by no means allowed by foreign Nationality Acts. He shall, however, be deemed never to have been French if, during his minority, the foreign nationality acquired or possessed by one of his parents happens to pass to him."</p> <p>2. a) in such case, the parents need to provide documents attesting that they are Palestinian (for example, travel documents for Palestinian refugees). There is no condition of minimum residence in France. Their place of birth does not impact the process either. b) this practice is mentioned in the French civil code and in the 1954 Convention on Statelessness.</p>
	Germany	Yes	<p>1. In Germany we do not have any legislation according to which a Palestinian child born in Germany would have to be considered as stateless and therefore would have to be naturalized. We do not assume a general statelessness of all Palestinian nationals, please see reply to question 2b). The question of nationality and/or statelessness is therefore clarified by the competent authority within the scope of the decision to be taken on the residence status of the person concerned or during the course of the naturalization procedure.</p>



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			<p>2.</p> <p>a) If a foreigner proclaims to be stateless, he/she (and/or in the case of a child his/her parents being his/her legal representatives) is/are obliged due to their duty to cooperate to present verifiable actual indications and to procure suitable evidence as for example documents, other documentation or information from experts.</p> <p>b) The convention regarding the legal status of stateless persons dated 28 September 1954 has come into force in Germany on 24 January 1977 (Federal Law Gazette II dated 10 February 1977, pages 235 ff.). In accordance with Article 1, section 1 of the convention, a „stateless person“ is someone that is not considered by any state as their national on the basis of the legislation of that state. According to section 2 of Article 1 said convention does not apply to persons receiving assistance from an organisation of the United Nations. Such an organisation is the UNRWA (The United Nations Relief and Works Agency for Palestine Refugees) which under the terms of their mandate renders assistance and help to Palestinian refugees, please see www.unrwa.org .</p> <p>The regulations governing the naturalization procedure are to be found in the (German) implementation law on the convention dated 30 August 1961 for the reduction of statelessness and on the Convention dated 13 September 1973 for cases of statelessness. In compliance with Article 2 of the German implementation law, the naturalization procedure conforms to the German law governing nationalities “Staatsangehörigkeitgesetz” (StAG). Pursuant to § 37, section 1, StAG, the regulations of § 80, section 1 and 3 as well as of § 8 of the residence law, apply to the power to act of minors and the obligations to cooperate.</p>
	Greece	Yes	No information available
	Hungary	Yes	<p>Persons originating from Palestine – unless a document does not state the contrary – are considered stateless persons in the practice of the competent authority and all procedures relating to citizenship issues. The competent authority takes into consideration their travel document issued by the competent authority of their country of usual residence and their birth certificate as well.</p> <p>According to the Hungarian Act on Citizenship a child born on the territory of Hungary whose stateless parents have a permanent address shall be presumed by law a Hungarian citizen, in the absence of evidence to the contrary. In this case, the following criteria have to be met:</p> <ul style="list-style-type: none"> - the parents have to be stateless (please note that Hungary has established a statelessness determination procedure), moreover - the parents are considered as permanent residents in Hungary, in other words they must hold a valid settlement permit, long term residence permit or other kind of (permanent) permit, and - the child was born on the territory of Hungary. <p>The Hungarian legislation is in line with the 1997 European Convention on Nationality and the 1961 UN Convention on the Reduction of Statelessness.</p>
	Ireland	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.




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	Italy	Yes	<p>1. Yes. As a general rule, Article 1 (1b) of Law No 91/1992 provides for the recognition of citizenship to those who were born in Italy and cannot acquire the citizenship of either parent. Under this provision, children who were born in Italy from stateless parents or who cannot have the citizenship of their parents under the law of their parents' State are Italian citizens by birth.</p> <p>2 a). However, Decree of the President of the Republic No 572/ 1993, <i>Regulation implementing Law 5 February 1992, No 91</i>, specifies that «a child born in Italy from foreign parents does not acquire Italian nationality by birth under Article 1(1b) of the law if the legal system of the country of origin of their parents provides for the transmission of nationality to a child born abroad, which may be conditional on a statement of will by the parents or legal representatives of the child, or the fulfilment of administrative procedures on their part».</p> <p>In practice, many stateless children born in Italy who might acquire Italian citizenship under Article 1(1) of Law No. 91/1992 have difficulties proving that they have not/cannot acquired the nationality of either parent. This is due to the absence of a statement of their parents' statelessness and to the difficulties in tracing the relevant laws of the countries of origin of their parents or the inconsistent or often wrong interpretations of these laws. At any rate, the UNHCR has found that Italian authorities apply Article 1(1b) in the right way.</p> <p>2 b). Domestic law</p>
	Latvia	Yes	<p>1. The child of Palestinian people that is born in the territory of your State is entitled to acquire by law the citizenship of the State as "stateless"? Yes. According to the Law it is possible to register such child as Latvian citizen, it depends on the choice of parents.</p> <p>2. If yes: a) Are there any prerequisites/required documents/special conditions that are taken into account? (eg specific type of residence permit of the parents, specific type of passport / travel document of the child or the parents, the parents' place of birth, the parents' period of residence in your country, official documentation of domestic / foreign / consular authorities on which the child or the parent is stated as "stateless", etc) According to the Citizenship Law a child who is born in Latvia after 21 August 1991 shall be recognised as a Latvian citizen concurrently with the registration of the child's birth fact on the basis of the volition expressed by one of the parents, provided that the following conditions exist at the same time: 1) both parents of the child are stateless persons non-citizens; 2) the permanent place of residence of such parent is in Latvia, but, in case the parent has arrived in Latvia after 1 July 1992, he or she has a permanent residence permit.</p>




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			<p>A child who has not been recognised as a Latvian citizen in accordance with Paragraph one of this Section shall be recognised as a Latvian citizen until reaching 15 years of age on the basis of an application by one of the parents, provided that the following conditions exist at the same time:</p> <p>1) prior to that, the child has been a stateless person non-citizens for the entire time;</p> <p>2) the permanent place of residence of the child is in Latvia;</p> <p>3) both parents of the child are stateless persons or non-citizens;</p> <p>4) for not less than last five years the permanent place of residence of the parent with whom the child is living has been in Latvia (for a person who has arrived in Latvia after 1 July 1992 the time period of five years shall be counted from the day of receipt of a permanent residence permit).</p> <p>b) Which law provides for above mentioned practice? (domestic law / international convention, etc)</p> <p>Citizenship Law of Latvia (section 3.1 specifically) adopted by the Parliament of Latvia on 22 July of 1994, the law states: a child of stateless persons or non-citizens can apply/qualify for citizenship of Latvia if a person falls within certain criteria in accordance with the procedure specified by the Citizenship Law of Latvia.</p>
	Lithuania	Yes	<p>1. Yes, if it is confirmed that both parents are Palestinians (stateless persons) or one parent is stateless and another unknown, the child would be considered a stateless person and could acquire the right to Lithuanian citizenship.</p> <p>2. a) The parents (or one of the parents when the second one is unknown) must possess a permanent residence permit in Lithuania. And the child, upon birth, must be a stateless person – if it is established that s/he became a citizen of some other state by birth, s/he doesn't have the right to acquire the Lithuanian citizenship.</p> <p>b) This is established by the article 15 of the Law on Citizenship of Lithuania.</p>
	Luxembourg	Yes	<p>1. Yes.</p> <p>2. Article 1 (4) of the law of 23 October 2008 on Luxemburgish nationality considers as a Luxemburgish citizen, the child who is born in the Grand Duchy of Luxembourg to foreign parents to whom foreign laws of nationality do not allow in any case the transmission of the nationality of one or the other parent to the child.</p>
	Malta	Yes	<p>Maltese Citizenship legislation (Maltese Citizenship Act - Cap 188) states the following as regards the acquisition of Maltese citizenship by naturalization by stateless persons:</p> <p>(6) Subject to the provisions of subarticles (7) and (8), a person shall be entitled, on making application to the Minister in the prescribed manner, to be granted a certificate of naturalisation as a citizen of Malta if he satisfies the Minister that he is and always has been stateless, and -</p>





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			<p>(a) that he was born in Malta, or (b) that his father was a citizen of Malta at the date of his birth by virtue of the provisions of article 3(2) or article 5(2) or that his mother was at that date a citizen of Malta.</p> <p>(7) A person referred to in subarticle (6)(a) shall not be entitled to be granted a certificate of naturalisation as a citizen of Malta under the provisions of that subarticle if the Minister is satisfied - (a) that he has not been ordinarily resident in Malta throughout the period of five years ending with the date of the application; or (b) that he has either been convicted in any country of an offence against the security of the State or has been sentenced in any country to a punishment restrictive of personal liberty for a term of not less than five years.</p> <p>(8) A person referred to in subarticle (6)(b) shall not be entitled to be granted a certificate of naturalisation as a citizen of Malta under the provisions of that subarticle if the Minister is satisfied (a) that he has not been ordinarily resident in Malta throughout the period of three years ending with the date of his application; or (b) that he has been convicted in any country of an offence against the security of the State.</p> <p>The person concerned would first have to produce documentation to prove that he is stateless before invoking the relative provisions of the Maltese citizenship legislation.</p>
	Netherlands	Yes	<p>1. No</p> <p>2. –</p>
	Portugal	Yes	<p>1. Yes</p> <p>2.a) Required documents: - Documentary evidence of the foreign nationality of the child's parents or their statelessness; - Document issued by the authorities of the country or countries of citizenship of the parents stating that the child is not a national of that or those countries; - Document issued by the authorities of the country or countries with which the child has relevant connections for the purpose of citizenship, attesting the fact that he/she does not possess the nationality of that or those countries. b) Domestic law (Portuguese Nationality Law) and international convention (Convention on the Reduction of Statelessness, adopted in New York on August 30, 1961)</p>
	Slovak Republic	Yes	<p>1. A child acquires the nationality of the Slovak Republic by birth if the child is born in the territory of the Slovak Republic and its parents are stateless, or the child is born in the territory of the Slovak Republic, its parents are aliens and the child acquires none of their nationalities upon birth. Unless alien nationality is proven, a child is considered to be a national of the Slovak Republic if it was</p>

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			<p>born in the territory of the Slovak Republic, or it was found in the territory of the Slovak Republic and its parents are not known unless it is proven that the child acquired nationality of another state upon birth.</p> <p>2. a) official documentation that parents are stated as „stateless“ or documentation, that child does not acquire none of parents nationalities upon birth b) national legislation</p>
	Slovenia	Yes	<p>1. Yes. If the child is born in the territory of Slovenia and his/her parents are stateless they could apply for Slovenian citizenship.</p> <p>2. a) Yes. Any official documentation that parents are stated as „stateless“ or documentation, that child does not acquire none of parents nationalities upon birth b) National legislation such as Act of Citizenship.</p>
	Spain	Yes	<p>1. The born in Spain, son of parents of Palestinian origin, since s/he has no nationality of a state recognized by Spain, is considered stateless child. Since the Civil Code states that are of Spanish origin "Those born in Spain of foreign parents, if both lack a nationality or the law of any of these attributes a nationality to the child". In this regard, it is noted that the purpose of this rule is to avoid statelessness of those born in Spain.</p> <p>2.a) The requirement to consider them as Spanish origin is to register the birth in the registry office, and once registered, is at the request of parents the start of a "declaration file of Spanish nationality with value of simple presumption", since the parents should prove this circumstance. In the case of the son of people of Palestinian origin, it would be enough with the recognition of the status of stateless by the Ministry of Interior.</p> <p>2.b) Laws under which these provisions are collected are: - Art 17.1.c) of the Civil Code. - The processing of files: Law and Rules of Civil Registration - The Instruction of March 28, 2007, the Directorate General of Registries and Notaries, on the jurisdiction of municipal Civil Registries and other rules on Spanish nationality records with simple presumption value. It also notes that if the Palestinians referred to in paragraph j) of point 1 of Annex of the Instruction. (BOE 86, of April 10).</p>
	Sweden	Yes	In Sweden no one acquires Swedish citizenship when born in Sweden by parents not being Swedish citizens.
	United Kingdom	Yes	1. A person from Palestine may be recognised as stateless by the UK. Some Palestinians may be excluded from recognition as a stateless person. In particular those "at present receiving from organs or agencies of the United Nations other than the United Nations

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		<p>High Commissioner for Refugees protection or assistance so long as they are receiving such protection or assistance”. Rule 402 of the Immigration Rules mirrors the provision of Article 1(2) (i) of the 1954 Stateless Convention.</p> <p>This means that stateless Palestinians do not come within the scope of the 1954 Stateless Convention if they are already given the protection and assistance of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). However, they may come within the scope of the Stateless Convention if they have not received that assistance, or have ceased to receive assistance for reasons beyond their control and independent of their volition. UNRWA was established following the 1948 Arab-Israeli conflict to carry out direct relief and works programmes for Palestine refugees. UNRWA operates in five areas: Jordan, Lebanon, Syria, the West Bank (including East Jerusalem), and Gaza. It provides education, health services, relief and social services to eligible and registered Palestinian refugees. Some five million Palestinians living in these areas are registered with UNRWA but not all Palestinians are in receipt of assistance.</p> <p>Additional reasons for not classifying someone as stateless (from any country) in the UK include, that they:</p> <ul style="list-style-type: none"> (a) are recognised by the competent authorities of the country of their former habitual residence as having the rights and obligations which are attached to the possession of the nationality of that country; (b) have committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provisions in respect of such crimes; (c) have committed a serious non-political crime outside the UK prior to their arrival in the UK; (d) have been guilty of acts contrary to the purposes and principles of the United Nations. <p>Points b-d are to be understood in a manner consistent with the Asylum Instruction on the interpretation of Article 1F of the 1951 Refugee Convention. The provisions of Article 1F are intended to deny the benefits of refugee status to those who would otherwise qualify as refugees but who should not be granted protection because there are “serious reasons for considering” that they have committed war crimes, crimes against peace or humanity, serious non-political crimes, or acts contrary to the purposes and principles of the UN.</p> <p>For more information on the determination of statelessness please see https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/258252/stateless-guide.pdf</p> <p>2. The following forms of evidence can be used to support recognition as stateless:</p> <ul style="list-style-type: none"> • documents regarding applications to acquire nationality or obtain proof of nationality; • testimony of the applicant (i.e. written application, interview); • response(s) from a foreign authority to an enquiry regarding nationality status of an individual (see below); • identity documents (e.g. birth certificate, extract from civil register, national identity card, voter registration document) • certificate of naturalisation;
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		<p>certificate of renunciation of nationality;</p> <ul style="list-style-type: none"> • previous responses by States to enquiries on the nationality of the applicant; • marriage certificate; • military service record/discharge certificate; • school certificates; • medical certificates/records (e.g. attestations issued from hospital on birth, vaccination booklets); • identity and travel documents of parents, spouse and children; • immigration documents, such as residence permits of country(ies) of habitual residence; • other documents pertaining to countries of residence (for example, employment documents, property deeds, tenancy agreements, school records, baptismal certificates); and record of sworn oral testimony of neighbours and community members. <p>https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/258252/stateless-guide.pdf</p> <p>As indicated above, UK immigration law reflects provisions in the 1951 Refugee convention and the 1954 Stateless Conventions</p> <p>B. 1. A child born in the UK to Palestinian parents would not automatically acquire British citizenship unless one of their parents was a British citizen or was 'settled' in the UK.</p> <p>However there is a route to registration as a British citizen for stateless people born in the UK or a British overseas territory if the following conditions are met:</p> <ul style="list-style-type: none"> • must have been stateless when born • must always have been stateless • must have been born on or after 1 January 1983 and be under the age of 22 at date of application • must have been born in the United Kingdom or a British overseas territory • meet a residential qualifying period of at least five years residence immediately before date of application, with only limited absences from the UK. <p>Please see https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/261557/guide_s3.pdf</p> <p>General rules for obtaining citizenship for people born in UK (not stateless people)</p> <p>A child born in the UK could register to become a British citizen if they fulfill all of the criteria:</p> <ul style="list-style-type: none"> • were born in the UK on or after 1 January 1983 • under 18 when apply • one of parents has become a British citizen or settled in the UK since child's birth <p>If a child has lived in the UK for 10 years they can register to become a British citizen if born in the UK on or after 1 January 1983 and neither of parents was a British citizen or settled at that time. To qualify this way, they must :</p> <ul style="list-style-type: none"> • be 10 years old, or older • and have lived in the UK until you were 10, or older <p>They also normally have spent no more than 90 days outside the UK in each of the first 10 years of your life.</p>
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			<p>There is also a general discretion to register a child under the age of 18. When considering an application we would take into account a number of factors including the child's residence in the UK, the parent's status, and whether there are any exceptional circumstances. Even if a child born in the UK on or after 1 January 1983 does not acquire British citizenship, he/she does not require a visa (leave to enter or remain) to live in the UK. However, he/she is subject to immigration control and needs to obtain leave to enter if he/she leaves the UK and seeks re-admission, or leave to remain where permission is sought for the child to be allowed to stay in the UK. This is based upon the British Nationality Act 1981, c. 61, § 1, http://www.legislation.gov.uk/ukpga/1981/61/section/1. Please see https://www.gov.uk/register-british-citizen/stateless-people</p>
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