STATELESSNESS INDEX

THEMATIC BRIEFING | UPDATED OCTOBER 2025

Statelessness determination and protection in Europe

Good practice, challenges and risks

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THE STATELESSNESS INDEX

The Statelessness Index (https://index.statelessness.eu/) is an online comparative tool developed and maintained by the European Network on Statelessness (ENS), that assesses European countries' law, policy, and practice on the protection of stateless people and the prevention and reduction of statelessness against international norms and good practice. ENS has worked with its members to research and compile comparative information on statelessness in 34 countries in Europe so far, with further countries to be added in future annual updates. For information on the Statelessness Index methodology, including how country data is collected and analysed, see the 'Methodology' section of the Statelessness Index website.

How is statelessness determination and status assessed in the Index?

The Statelessness Index uses a set of benchmarks to assess countries' law, policy, and practice on statelessness determination and the protection status of stateless people. These benchmarks are drawn from international and regional human rights standards, soft law, relevant reports, and consultation with experts. The benchmarks and their sources can be viewed in more detail in the 'List of norms and good practices' available on the 'Methodology' section of the Statelessness Index website, and are outlined across this briefing.

The Statelessness Index analyses whether countries have a definition of a stateless person that is aligned with the 1954 Convention relating to the Status of Stateless Persons, whether they have a dedicated procedure to determine statelessness, whether that procedure leads to a dedicated statelessness status, and whether adequate training is provided to government bodies, lawyers, and the judiciary. Different benchmarks are then assessed depending on whether the country has a dedicated procedure to determine statelessness.

This briefing presents good practice and barriers to the protection of stateless people across the 34 Statelessness Index countries. Most of the analysis in this briefing focuses on countries that have a procedure to determine statelessness, highlighting best practice examples in each aspect of the procedure and the protection status granted thereof. Some sections draw on examples from all 34 Index countries, or note best practice from beyond Europe. The country examples highlighted throughout this briefing are illustrative and all sources can be found in the country surveys available to download from each country's page on the Index website.

The Statelessness Index data is updated regularly, so the overall assessment may change accordingly. This briefing was published in October 2025 based on data which is accurate as of September 2025.

1. INTRODUCTION

To be stateless is to have no nationality. For the millions of stateless people around the world, this can mean denial of basic rights most people take for granted: to go to school or work, get married or register the birth of your child, to legally 'exist'. In Europe, statelessness affects both recent migrants and those who have lived in the same place for generations.[1] It can be intertwined with other root causes of displacement,[2] such as the persecution of minority groups, armed conflict, discrimination and gaps in nationality laws, and deprivation of nationality practices. Many in Europe are also stateless *in situ*, they may have been born in the country where they are living or have lived there for many years, as *in situ* statelessness is often linked to State succession and discriminatory laws or practices against certain communities trapped in intergenerational statelessness. For example, thousands of Romani people in Europe lack any identification documents to assert their nationality, and hundreds of thousands of people are excluded from citizenship in the Baltic States, particularly Russian-speaking minority groups.[3]

The only way to resolve statelessness is to acquire a nationality. However, it is important to distinguish between the solutions required to address *in situ* statelessness and statelessness in a migratory context.[4] For people who are stateless *in situ*, who have long-established ties to the countries where they are living, the solution is *not* to grant a protection status that prolongs their statelessness. Instead, States should resolve *in situ* statelessness by confirming or granting nationality to those who lack it, including through targeted nationality campaigns or nationality verification efforts. States should also work to identify and eliminate discriminatory laws, policies, and practices that perpetuate intergenerational (risk of) statelessness affecting minoritized and marginalised populations.

In the case of stateless migrants or refugees, States should first identify who is stateless on their territory, formally determine their statelessness (giving primacy to any asylum claim), and then grant them an adequate protection status with rights aligned with the 1954 Convention relating to the Status of Stateless Persons (1954 Convention) and international human rights law.[5]

Establishing a dedicated SDP helps States assess the size of the stateless population on their territory and the issues they face, as well as adequately identifying and protecting stateless migrants and refugees, thereby both fulfilling their obligations under international law and providing a comprehensive, sustainable solution for individuals who cannot return to their country of origin or former residence. Most countries in Europe

STATELESS PERSON

A stateless person is someone 'who is not considered as a national by any State under the operation of its law'[1]. This definition is part of customary international law and has been authoritatively interpreted by UNHCR as requiring 'a mixed question of fact and law'. [2]

UNDETERMINED OR UNKNOWN NATIONALITY

Refers to a situation where a person's nationality or lack of nationality is not yet confirmed. These terms should be used with extreme caution for the shortest possible time and should always trigger a formal determination of the person's nationality or statelessness. People who identify themselves as stateless should generally be recorded as stateless and referred to an appropriate procedure to determine their statelessness (or nationality).

IN SITU STATELESSNESS

People who are stateless *in situ* are commonly in a non-migratory situation. They may be stateless in 'their own country',[3] a country they have a significant attachment to (which is often the country where they were born and have always lived), and do not have significant ties to other countries. Statelessness *in situ* often occurs in the context of State succession or is perpetuated due to discriminatory laws or practices against certain communities.

are yet to introduce a dedicated SDP, resulting in a failure to uphold the rights of stateless people, leaving many facing years of uncertainty, social exclusion, risks of arbitrary immigration detention, and other human rights violations. There continues to be a gap between accession to the 1954 Convention and implementation of these obligations in domestic law and practice.

This briefing summarises how law, policy, and practice in the 34 countries featured in the Statelessness Index perform against international norms and good practice on statelessness determination and the protection of stateless people, and recommends key actions needed to improve the protection of stateless migrants and refugees in Europe.

2. INTERNATIONAL NORMS ON DETERMINATION OF STATELESSNESS

ARTICLE 1, 1954 CONVENTION RELATING TO THE STATUS OF STATELESS PERSONS

Definition of the term "Stateless person"

1. For the purpose of this Convention, **the term "stateless person" means a person who is not considered as a national by any State under the operation of its law.**
2. This Convention shall not apply:
   (i) To persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance so long as they are receiving such protection or assistance;
   (ii) To persons who are recognized by the competent authorities of the country in which they have taken residence as having the rights and obligations which are attached to the possession of the nationality of that country;
   (iii) To persons with respect to whom there are serious reasons for considering that:
      (a) They 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;
      (b) They have committed a serious non-political crime outside the country of their residence prior to their admission to that country;
      (c) They have been guilty of acts contrary to the purposes and principles of the United Nations.

In determining whether a person is stateless and should be entitled to protection, States must refer to the definition of a stateless person in the 1954 Convention and consider UNHCR guidance on the interpretation of this definition.[6] In 2014, UNHCR published its Handbook on Protection of Stateless Persons, intended to assist governments, policy and decision makers, international organisations and civil society in interpreting and applying the 1954 Convention.[7]

Under the 1954 Convention and international human rights law, States must ensure that stateless people on their territory have access to juridical rights, the right to work, economic and social rights including housing, education and social security, freedom of movement, identity and travel documents, facilitated naturalisation, and protection from expulsion. As States cannot meet these obligations towards stateless people without a mechanism to identify who on their territory is stateless, the obligation to identify and determine statelessness is implicit in the 1954 Convention.[8] This obligation has been reiterated by UNHCR,[9] the UN Human Rights Committee,[10] and the European Court of Human Rights.[11]

The determination of statelessness is best fulfilled through a dedicated statelessness determination procedure (SDP) that is fair, efficient, and easily accessible, in line with UNHCR guidelines.[12] As the procedure is not an end in itself, for States to fulfil their obligations under the 1954 Convention the determination of statelessness must lead to a dedicated statelessness status which includes a residence permit, access to economic, social, civil, and political rights, the right to administrative assistance, exemption from requirements the person cannot meet because they are stateless, and other rights protected by international law. States should also establish a facilitated route to naturalisation so stateless people can acquire a nationality and resolve their statelessness.

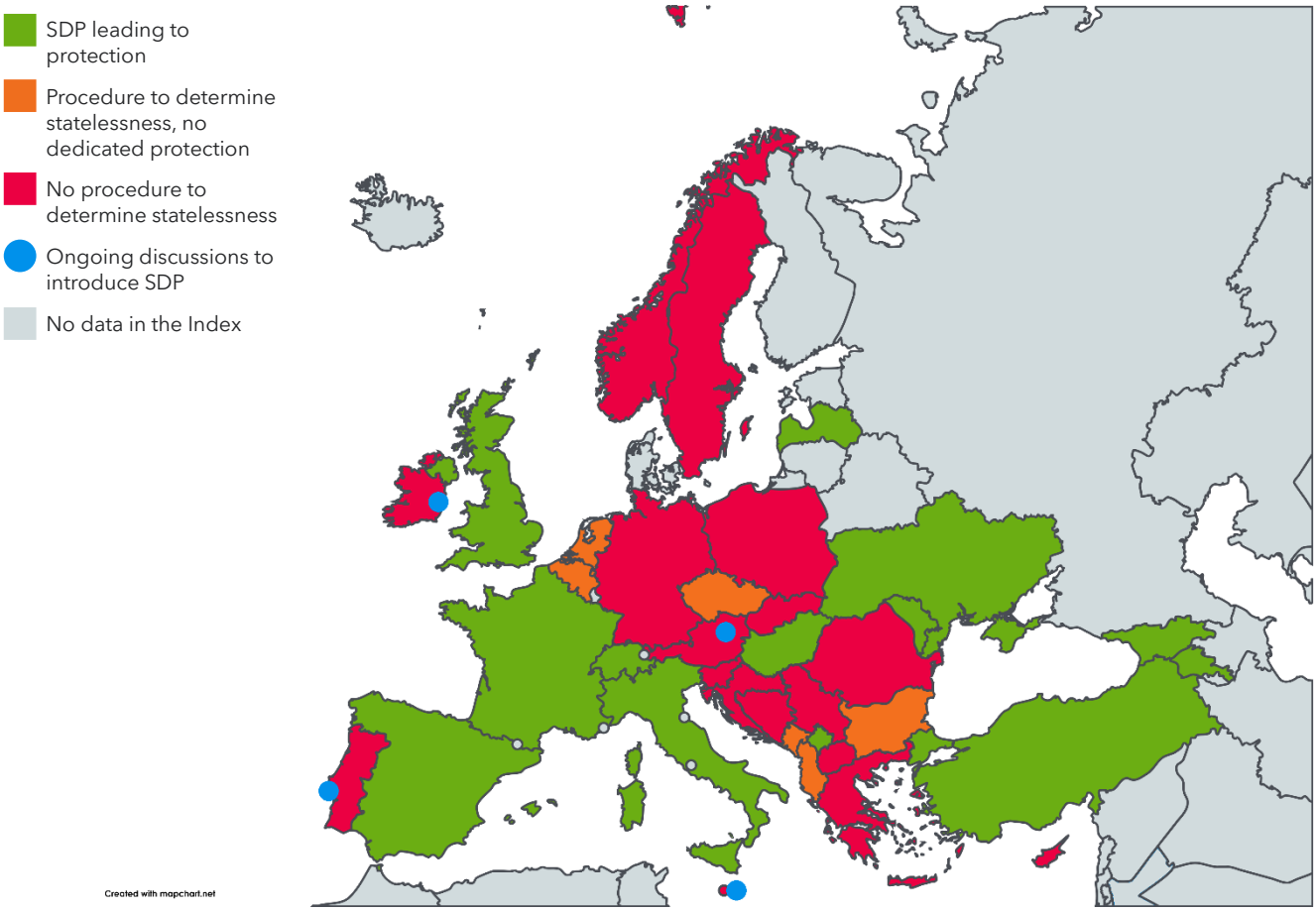
Of the 34 countries in the Index that have acceded to the 1954 Convention, 17 entered reservations that impact on the rights of stateless people.[13] These most commonly impact on the right to welfare assistance, and the right to identity documents.[14] Cyprus and Poland are the only two Index countries that are not yet States parties to the 1954 Convention (and along with Estonia, are the only EU Member States who have not yet acceded to the Convention).[15]

3. STATELESSNESS DETERMINATION AND PROTECTION IN EUROPE

While the vast majority of countries in the Statelessness Index have acceded to the 1954 Convention, only 18 countries have any procedure to determine statelessness, i.e. where determination of statelessness is the objective of the procedure.[16] However, the outcome of procedures varies and not all countries automatically grant protection to those determined to be stateless, so only 14 can be considered to have fully functioning statelessness determination procedures (SDPs).

RECOMMENDED BEST PRACTICE

- State identifies stateless people within its jurisdiction to provide them appropriate treatment to comply with its 1954 Convention obligations.
- State has established a statelessness determination procedure in law, leading to a dedicated statelessness status.



France, **Georgia**, and **Moldova** are among the countries assessed most positively on this theme in the Statelessness Index, as they have SDPs, which are formalised in law, operational in practice, and lead to a dedicated statelessness status. Many procedural safeguards are in line with best practice, and determination of statelessness automatically results in a renewable residence permit with economic and social rights.

Bulgaria, **Hungary**, **Italy**, **Kosovo**, **Latvia**, **Montenegro**, **Spain**, **Switzerland**, **Türkiye**, **Ukraine**, and the **United Kingdom** also have SDPs leading to a statelessness status but are assessed less positively due to shortcomings in their procedures or in the protection status granted. For example, in **Bulgaria**, **Montenegro**,

and **Ukraine**, after being recognised as stateless the person must apply for a residence permit rather than being granted one automatically, and in these countries as well as in **Hungary** the rights attached to it are significantly lower than the standard established by the 1954 Convention. **Spain**'s SDP is established by Royal Decree, but procedural rules are not set out in law, and in **Switzerland** the administrative procedure to determine statelessness is not formalised in law. In the **United Kingdom**, a residence permit is only granted to a person recognised as stateless if some refusal grounds do not apply. In **Italy**, although there is an administrative and a judicial procedure, the parameters for determining statelessness are not clearly established in law.

Some countries have a procedure that aims to determine statelessness, but this does not lead to a dedicated statelessness status. This includes **Albania**, which introduced an SDP in law in 2021 followed by an instruction to implement and regulate the SDP in June 2023, but there is no information available yet about practice and the instruction does not specify the rights granted. In **Belgium**, there is a judicial procedure through which statelessness can be determined by the family courts and, since September 2024, an administrative procedure to apply for a residence permit on the grounds of statelessness. However, the judicial procedure does not lead to any protection or rights, and there are notable issues with the administrative procedure, including strict admissibility requirements and limited procedural guarantees. In the **Netherlands**, a procedure was established in law in 2023 whereby statelessness can be determined by the civil chamber of the Court of The Hague, or by administrative authorities in specified cases of 'obvious statelessness'. However, it cannot be considered an SDP as recognition does not lead to a dedicated protection status nor any residence rights. Since 2023, **Czechia** has established a procedure for determining statelessness under the authority of the Ministry of Interior, but it initially only leads to tolerated stay and the protection afforded is very limited.

Almost all other countries in the Statelessness Index have mechanisms through which some stateless people may be able to have their statelessness identified *ad hoc* or access a residence permit and some rights, for example through immigration, international protection, humanitarian, or nationality related procedures. However, their purpose is not to determine statelessness, resulting in significant protection gaps that are further explored in Section 3.3. In **Serbia**, there is a statelessness status in law but no procedure to determine this. In **Portugal**, some stateless people may be able to regularise their stay, but not on the basis of statelessness. However, a new law was approved in 2023 establishing that stateless people are entitled to statelessness status and there are ongoing discussions in Parliament to establish the procedure and related rights.

3.1. KEY ELEMENTS OF A STATELESSNESS DETERMINATION PROCEDURE

There are five key elements that must all be in place for an effective statelessness determination procedure to be established, access to protection ensured, and statelessness in the migratory context to be reduced:[17]

1. Accession to and compliance with relevant international instruments including the 1954 Convention;
2. Availability of information about statelessness and capacity of relevant competent authorities;
3. Effective determination of statelessness;
4. Adequate and rights-based protection status as a consequence of determination; and
5. Facilitated route to naturalisation resolving statelessness.

An effective statelessness determination procedure must be accessible to all stateless migrants and refugees on the territory, must involve a fair and non-discriminatory assessment with procedural safeguards and rights of appeal, applicants must be granted protection during the procedure, and must result in a protection status for those determined to be stateless. This section examines each of these core elements of an SDP in detail, analysing how the countries in the Statelessness Index that have an established SDP perform against norms and good practice. The protection and rights available to stateless migrants in countries without a dedicated procedure to determine statelessness are analysed in Section 3.3.

3.2. DEFINITION OF A STATELESS PERSON

RECOMMENDED BEST PRACTICE

- The definition of a stateless person and the exclusion provisions align with the 1954 Convention.

Article 1(1) of the 1954 Convention, which stipulates that a person is stateless if they are '*not considered as a national by any State under the operation of its law*' is binding on all States parties and is deemed part of customary international law.[18] UNHCR has published extensive guidance on the interpretation of this definition, including that an assessment of statelessness should be a '*mixed question of fact and law*'.[19] This means that the assessment should examine both the letter of the law and factual circumstances, including how the competent authorities apply the law in practice. General principles of international law establish that it is for each State to determine who are its nationals.[20] The use of the term '*de facto stateless*', to describe a person who should be considered a national in accordance with a State's law but is not in practice recognised as a national under the operation of that law, is not defined in international law and should not be relevant for the purposes of determining whether a person is stateless under the 1954 Convention, which should only be carried out by reference to the definition in Article 1 of the 1954 Convention. Determining that someone is 'de facto' rather than '*de jure*' stateless risks permitting States to avoid their obligations towards stateless people by wrongfully excluding them from the protection of the 1954 Convention.[21] In fact, many situations which may be described as 'de facto statelessness' fall within the scope of the 1954 Convention where individuals are not considered nationals of a State *under the operation of its laws*. As UNHCR has clarified, '*it is the subjective position of the other State that is critical in determining whether an individual is its national for the purposes of the stateless person definition*'.[22]

France, **Greece, Kosovo**, **Moldova, Portugal**, and **Ukraine** have incorporated a definition of a stateless person in national law that is in line with the 1954 Convention. Other countries, including **Belgium** and **Italy**, have not defined the meaning of a stateless person in law, but the 1954 Convention has direct effect, so this applies in domestic law.

GOOD PRACTICE: INCORPORATION OF THE 1954 CONVENTION DEFINITION IN FRENCH LAW

French law explicitly refers to the 1954 Convention definition, establishing that statelessness is recognised for any person who meets the definition in Article 1 of the 1954 Convention and that the provisions of the Convention govern their treatment.

Stateless person not defined in law

Austria and **Ireland** have not fully incorporated the 1954 Convention into domestic legislation and there is no definition of a stateless person in domestic law. The absence of a legal definition is a serious barrier for stateless people seeking protection. For example, Irish legislation contains various references to stateless persons, but the lack of a clear definition means that statelessness is only considered in an *ad hoc* way by the competent authorities, and there is no official guidance on how to determine or claim statelessness. **Cyprus** and **Poland** are not parties to the 1954 Convention and have not defined a stateless person in their domestic law, but there are several references to stateless persons in their legislation, which creates confusion.

Narrow definition of a stateless person

Some countries have a definition of a stateless person in law that is narrower than Article 1(1) of the 1954 Convention. For example, several countries define a stateless person as someone who is not considered as a national by any State '*according to its legislation*' or '*under its laws*' (or a similar formulation), rather than '*under the operation of its law*', removing the vital consideration of how laws are applied in practice.[23]

In **Albania** and **Türkiye**, the definition only refers to a person who is not a national of any State, without the operative part of the 1954 Convention definition. In some countries translation has caused issues, such as in **Spain** where the definition in the Spanish version of the 1954 Convention is more restrictive than the English and French versions, which has led to the courts in **Spain** issuing judgments stating that a stateless person is a person who does not have the right to acquire a nationality.

Grounds for exclusion that go beyond the 1954 Convention

The 1954 Convention only permits States to withhold protection from people excluded under an exhaustive list of grounds.[24] However, **Bulgaria**, **Hungary**, **Latvia,** and **Switzerland** have established exclusion grounds either explicitly in the definition of a stateless person or in other provisions, which unduly exclude some stateless people from the protection of the 1954 Convention.

Bulgaria has far-reaching grounds to refuse statelessness status, including being in possession of expired identity documents, having been issued a removal order for irregular stay, and lack of means of subsistence. **Hungarian** law automatically excludes from statelessness status someone whose stay '*violates or endangers the national security of Hungary*' (although it is unclear if this has been used in practice). In **Latvia**, the law excludes 'non-citizens' from the definition of a stateless person, who are defined separately in domestic law and not considered stateless by national authorities.[25] In **Switzerland**, the authorities only recognise people as stateless if they have lost their nationality through no fault of their own and the individual must demonstrate an interest worthy of protection ('*schutzwürdiges Interesse*'). This means they must show that they would be in a better position if recognised as stateless, although practice has changed based on recent jurisprudence which found that, in principle, a person always has a legitimate interest in having their statelessness recognised. In **Albania** and **Montenegro**, asylum applicants and beneficiaries of refugee status or subsidiary protection may not apply for the SDP. In **Ukraine**, people who were previously issued a return or deportation decision, including due to irregular stay, are not allowed to apply for the SDP until that decision is cancelled.

3.3. ACCESS TO PROCEDURES

RECOMMENDED BEST PRACTICE

- To facilitate access, the procedure is located centrally or locally, appropriate to the country context, and competent authorities have the necessary expertise.
- Accessible information is available to potential applicants on the procedure (e.g., wide dissemination, targeted campaigns, counselling) in a language they understand.
- Application procedures are flexible and accessible (e.g., oral submissions permitted, simple forms in different formats, no language restrictions etc.).
- There are safeguards in law permitting State authorities to initiate a procedure (*ex officio*).
- There is no restriction on access based on lawful stay or residence and there is no time limit for access.
- There is cooperation between agencies that may have contact with stateless people.
- Indications of statelessness are identified and recorded during border screenings, pending determination of whether the individual is stateless. There is referral from the border to the SDP.
- Statelessness is identified and recorded in asylum procedures and guidance relating to identification and determination of statelessness within asylum procedures is available. The applicant's country(ies) of former habitual residence are recorded to support accurate assessment and follow-up on indications of statelessness.
- Access to the SDP does not require a prior application for asylum. Coordination between the asylum and SDP procedures must be consistent with applicable procedural safeguards. Applying to the SDP is not interpreted as a request for international protection for the purposes of inappropriately triggering responsibility-sharing or relocation procedures which may exempt a State from assessing an asylum or statelessness claim (e.g. Dublin III Regulation).

Lawful stay requirement, time limits, and fees

For an SDP to be fair, efficient, and non-discriminatory, it is essential that safeguards are put in place to ensure the procedure is accessible to all, and bureaucratic hurdles do not impede access to protection.[26] There should be no time limit to submit an application, no fees, and no condition of lawful stay, as stateless migrants often lack the documentation required to apply for entry or residence permits.[27]

Most countries do not impose time limits, fees, or lawful residence requirements on SDP applicants, including **Belgium**, **Bulgaria**, **Czechia**, **France, Georgia, Hungary**, **Italy**, **Kosovo**, **Latvia, Moldova**, **Spain**, **Switzerland**, **Türkiye**, **Ukraine**, and the **United Kingdom**. In **Italy**, practice in relation to the administrative procedure has recently improved so that it is no longer compulsory to present a residence permit and birth certificate, which had previously been a barrier to access. In **Hungary**, a Constitutional Court ruling in 2015, later reinforced by the European Court of Human Rights, found that limiting access to the SDP to those lawfully staying in the country prevented vulnerable stateless people from effectively accessing the protection to which they were entitled.[28]

Unfortunately, some countries, including **Albania**, still require lawful stay to be able to access the SDP; and in other countries, such as **Ukraine**, there are administrative and financial barriers, including the payment of fees for consular certificates confirming the applicant is not a national.

Flexible and accessible procedures

To prevent discrimination, application procedures should be flexible and allow for both written and oral submissions. If required, application forms should be simplified. Applications should be permitted in any language and/or free translation and interpretation provided to address language barriers.

Some countries provide flexible and accessible ways to apply for determination of statelessness. Applications can be made in writing and orally in any language in **Hungary**, **Moldova**, and **Türkiye**. In **Albania** and **Kosovo**, applications are accepted in English as well as local languages. **Moldova** does not require the application to be made in any specific form, provided it contains a clear and detailed description of relevant facts and evidence. In **Georgia**, the application form is simple and available in multiple languages. While it must be completed in Georgian, a translator can be requested to assist. Similarly, in **Ukraine**, while the application must be made in writing in Ukrainian on a specific form and in person, the form is simple, and the law obliges the authorities to complete the application upon request if the applicant is unable to and to provide free translation and interpretation (although this is rarely provided in practice due to a lack of interpreters and funding).

Applicants should not need to submit any documents or fulfil requirements that may hinder access to SDPs, given that the nature of their statelessness may mean they cannot access certain documents or forms of identity. Where such requirements do exist, authorities should be flexible and offer exemptions, ensuring that the merits of the application are still considered. In **Bulgaria**, regulations provide that if the applicant cannot provide a birth certificate or proof of residence in the country, they can indicate the reason to the competent authority (although there may still be issues in practice). In **Latvia**, there is a safeguard in the law permitting a decision to be made based on available documentation if applicants are unable to provide the required identity document and proof of inability to acquire another nationality.

As to the remaining barriers, language barriers are common with applications often being required to be made in an official language, or with a certified translation, which can be costly. Some countries impose significant documentation requirements such as **France**, where applicants must submit a specific written form in French accompanied by two recent photographs and sometimes other documentation; **Montenegro,** where a birth certificate is usually required; and **Ukraine**, where despite the law providing for flexibility, in practice, photo ID, biometric data, and other documentation is often required. In some countries, applications are complex, lengthy, and excessively formal, such as in **Belgium**, **Spain**, and the **United Kingdom**, where applicants must also provide biometric information and establish their identity.

In the **Netherlands**, municipalities are now only able to assess cases of 'obvious statelessness', which may push individuals to seek lengthy and costly judicial proceedings.

Accessible information about the procedure

Information about the procedure should be available to potential applicants in a language they understand, and this should be widely disseminated (for example online, through information campaigns, and/or individual counselling).

In **France**, **Georgia** and **Latvia,** detailed information on how to obtain statelessness status is available online, both in English and in an official language.[29] In **Switzerland**, **Türkiye**, **Ukraine** and the **United Kingdom** there is some information online, although it is very limited.[30] To fill information gaps, UNHCR and NGOs often publish additional information for applicants on how to apply for the SDP, eligibility requirements, and procedural safeguards, for example, in **Ukraine, Bulgaria, Switzerland**, and the **United Kingdom**. However, in several countries, such as **Hungary, Albania,** and **Montenegro** there is no specific guidance on how to apply for statelessness status aimed at potential applicants.

Competent authorities with expertise

The relevant competent authorities, judiciary, and lawyers should have the right expertise, with access to training and information. Access to the procedure should be facilitated at an appropriate level for the country

context (for example, centrally or locally), provided the authority has adequate expertise and the procedure remains accessible.

In Europe, SDPs are generally managed by central government bodies, most often within Ministries of Interior or Justice. Fully centralised systems include **Albania**, **Czechia, France**, **Kosovo**, **Latvia**, **Spain**, **Ukraine**, the **United Kingdom**, and **Georgia**. In **Bulgaria**, while applications may be submitted regionally, assessment is conducted centrally at the Ministry of Interior.

More decentralised models are seen in **Moldova**, **Hungary**, **Montenegro**, **Türkiye**, and **Switzerland**, where a central authority is formally responsible for determining statelessness, but implementation occurs through regional or local offices.

Some countries offer both an administrative and a judicial route to determine statelessness. This is the case in **Belgium** and **Italy**, which have a centralised administrative route under the umbrella of the Ministry of Interior, and a judicial route through specialised divisions of the civil court (in Italy) or the family courts (in Belgium) – in Belgium, however, recognition under the judicial procedure does not lead to any protection or rights. The **Netherlands** has a decentralised administrative procedure whereby municipalities and certain government bodies can determine statelessness in cases of 'obvious statelessness', and also a centralised judicial procedure – but neither of these routes leads to residence or protection.

In some countries, formal dedicated training on statelessness has regularly been provided to competent authorities (e.g. **Bulgaria**, **Georgia**, **Moldova**, and **Ukraine**), and in others this has been more ad hoc (e.g. in **France**, **Latvia**, **Montenegro**, and the **United Kingdom**). In some of these countries, training on statelessness is also provided to judges and lawyers, either as integral to their professional training, or delivered by UNCHR and NGOs. However, such civil society initiatives tend to be ad hoc and may be affected by recent funding cuts.

In some countries, such as in **Montenegro**, decentralisation of competency for the SDP to regional units has led to inconsistent practices. Similarly, where there are both administrative and judicial procedures, such as in **Belgium, Italy**, and the **Netherlands**, there are different eligibility criteria and outcomes, leading to confusion and misinformation on how a stateless person can access their rights. Many countries do not provide any formal training on statelessness to competent authorities, judges, or lawyers, and a reliance on NGOs and international organisations is often subject to short-term project funding and other resource and capacity limitations.

Ex officio initiation and cooperation between agencies

There should be cooperation between agencies that may have contact with stateless people so potential applicants can be referred to the procedure. Safeguards in law permitting State authorities to initiate the procedure *ex officio* (on their own initiative) are also recommended.[31]

In most countries, it is left to affected individuals to initiate the SDP on their own behalf, which is particularly problematic considering the lack of information about procedures and how to apply. Many stateless people are unaware of the existence of an SDP or may fear approaching public authorities. Stateless women, children, people with disabilities, older people, marginalised and minoritized groups are particularly disadvantaged in such circumstances if State authorities do not put measures in place to guarantee substantive equality of access to procedures and protection.

In some countries, such as **Moldova**, **Spain**, **Kosovo**, and the **United Kingdom** the procedure can be initiated *ex officio* by government officials (i.e. at their initiative), but this is rarely used in practice. Similarly, there is cooperation between agencies that may have contact with stateless people in some countries, including **Bulgaria**, **France**, **Georgia**, **Hungary**, **Latvia, Moldova**, and **Spain**, but individuals are not always consistently referred to the SDP. Few countries have formal mechanisms for referral or cooperation between

agencies, and in many, the SDP cannot be initiated *ex officio* by the authorities. Furthermore, there is no evidence of routine referrals to SDPs from immigration detention. In **Ukraine** and the **United Kingdom**, a lack of coordination and cooperation between government agencies coming into contact with stateless people has been raised as a concern.

GOOD PRACTICE: FLEXIBLE ACCESS TO THE SDP IN KOSOVO

In Kosovo, the examination of applications is conducted centrally by the Division of Citizenship under the Department for Citizenship, Asylum and Migration of the Ministry of Internal Affairs. Instructions on how to make an application are available online. Applications can be made orally or in writing through a simple form. The form and interpreting are available in three languages. Applicants must submit all available evidence, although authorities often request documents from other institutions on their own initiative to complete the application. There is an obligation on the authorities to consider applications, and they may initiate the procedure *ex officio* (although this option has never been used). There is no fee, lawful stay requirement, nor time limit to access the procedure. There is cooperation between the competent authority, UNHCR, and civil society to refer cases for statelessness determination.

3.4. ASSESSMENT OF APPLICATIONS

RECOMMENDED BEST PRACTICE

- The burden of proof is shared between applicant and examiner, taking into consideration the difficulties inherent in proving statelessness.
- The standard of proof is the same as in asylum procedures ('reasonable degree of likelihood'), in keeping with the humanitarian objective and inherent difficulties of proving statelessness in the likely absence of documentary evidence.
- Measures are in place to guarantee substantive equality for women, children, LGBTIQ+ people, and other groups at risk of discrimination in procedures. State follows the principle of pursuing the best interests of the child.
- Clear guidance is available to determining authorities, including accurate and reliable country of origin information relating to statelessness.
- There is no evidence of significant errors in decision-making.

The assessment of SDP applications must be fair and non-discriminatory. This means ensuring fair evidentiary requirements, implementing measures to prevent discrimination against disadvantaged groups, and providing clear guidance, including accurate and reliable country of origin information relating to statelessness, to support high-quality decision-making.

As statelessness determination requires a mixed assessment of fact and law, all available evidence should be considered, including about the applicant's personal history, the nationality laws of relevant countries, and their implementation in practice.[32] Evidence can be both oral or written and could include testimonies from the applicant or members of the community, responses from foreign authorities about the nationality status of the applicant, country of origin information, information provided by UNHCR, identity and travel documents (even if expired), documents relating to nationality applications, school and medical certificates, or identity documents from family members.[33] Enquiries should be limited to States with which the applicant has a relevant link, especially through birth on the territory, descent, marriage, adoption, or habitual residence.[34] States must take into account the primacy of any asylum claim and should never contact the

authorities of a State where an applicant alleges a well-founded fear of persecution, until any asylum claim is fully resolved.[35]

The assessment must take into consideration that determining statelessness requires proving a negative – that the applicant is not considered a national by any State under the operation of its law. It is generally much easier for State authorities to establish a positive – that a person is a national – than it is for a stateless person to prove a negative – that they are not a national. This power imbalance should be considered when assessing the available evidence. Due to the nature of their status, stateless people already face significant challenges to acquire documentary evidence, which are often exacerbated by their circumstances, such as lack of financial means, lack of legal representation and/or support, personal histories of persecution and/or exclusion, and language barriers.

Burden of proof

Considering the difficulties inherent in proving statelessness, the burden of proof should be shared between applicant and examiner, so that the applicant and the authority cooperate to obtain evidence and establish the facts. In many countries, the assessment of statelessness falls short of international standards as clear evidentiary rules are lacking or these do not take account of the difficulty of proving statelessness, but there is some good practice.

In **Georgia**, while the burden of proof is on the State, the applicant must submit all necessary documentation and has a duty to cooperate with the competent authority, who must investigate all circumstances relevant to the case and may request additional information from foreign countries or other Georgian authorities. In **France**, **Latvia**, **Kosovo**, **Moldova**, **Montenegro**, **Netherlands**, **Spain**, **Türkiye**, **Ukraine**, and **Italy** (judicial procedure), the burden of proof is explicitly shared between the applicant and the competent authority.

In some countries, the courts have played an important role in developing evidentiary rules for statelessness determination. For example, in **Hungary**, the Hungarian Supreme Court confirmed that the burden of proof is shared, and the lack of identity documents, as well as the impossibility of obtaining such documents due to reasonable circumstances, cannot be automatically considered a violation of the applicant's duty to cooperate.[36] In **Spain**, the Supreme Court has stated that there is an '*obvious obligation of cooperation on the part of the Administration*' and that it is enough for applicants to '*manifest their lack of nationality*'.[37] In **Bulgaria**, the Supreme Court confirmed in 2023 that the administrative authority must verify whether a person is stateless or not during the administrative proceedings if this is in doubt (although this is yet to be implemented in practice).[38]

In terms of remaining barriers, several countries place the burden of proof on the applicant, including **Albania**, **Belgium**, **Italy**, **Switzerland**, and the **United Kingdom**, as well as **Italy** in its administrative procedure. In **Switzerland**, there may be exceptions, but the threshold is very high. In **Ukraine**, the competent authority often requests applicants collect and submit documents prior to submitting the application and has been reported to orally refuse an application if this is not done. The administrative procedure in **Belgium** has a very high evidentiary threshold, which presents a significant barrier to applicants, as they must demonstrate their identity, origin, statelessness from birth or involuntary loss of nationality, and inability to acquire nationality or permanent residence in another State.

GOOD PRACTICE: BURDEN OF PROOF ON THE STATE IN GEORGIA

In the Georgian SDP, the burden of proof is on the State. The applicant must submit all necessary documentation, such as an identity card, a travel document, documents showing lack of nationality and residence history, and has a duty to cooperate with the competent authority. The competent authority must investigate all circumstances relevant to the case and may request additional information from foreign countries or other Georgian authorities, including to assess the impact of granting statelessness status on State security.

Standard of proof

It is recommended that the standard of proof is the same as in refugee status determination procedures, due to the detrimental impact of statelessness and grave consequences of an application being incorrectly rejected, particularly in the likely absence of documentary evidence. This means that if it is established '*to a reasonable degree of likelihood*' that the applicant is not considered a national by any State under the operation of its law, they should be determined to be stateless.[39] Under the 1954 Convention, every person is either a national of a State or stateless, so every effort should be made to prevent anyone being left in limbo and deprived of the protection of any State.[40]

There are examples of good practice in **Albania**, **Georgia**, **Hungary**, **Italy**, **Kosovo**, **Moldova**, and **Montenegro** where the standard of proof is the same or sometimes lower than the standard applied in refugee status determination procedures. In **Georgia**, there is no specific standard of proof for the SDP but general administrative rules apply in the same way they do in the refugee status determination procedure. In **Hungary**, the law sets a lower standard of proof in statelessness determination by requiring the applicant to '*prove or substantiate*' their statelessness.

Remaining barriers include that in some countries the standard of proof is explicitly higher in the SDP assessment than in refugee status determination procedures, for example, in **Bulgaria**, **France**, **Switzerland**, and the **United Kingdom**. In **Bulgaria**, the applicant is required to 'prove or justify' their statelessness and there is no provision lowering the standard of proof, as there is for the asylum procedure. In the **United Kingdom**, applicants are required to '*establish that they are not considered a national of any State to the standard of the balance of probabilities (that is more likely than not)*'. This approach is highly problematic and creates significant obstacles for stateless people to access protection.[41] In **Switzerland**, the standard is '*full proof*', rather than the lower standard applied in refugee status determination, and applicants must prove that, according to the law of the State(s) with which they have a special connection, they do not possess its nationality and cannot (re)acquire it. The Swiss courts have endorsed this higher standard of proof in recent judgments. There are also countries where the standard of proof is not established in law, leading to confusion and inconsistent practice.

Child rights-based statelessness determination procedures and safeguards against discrimination

States should also implement measures to prevent discrimination and guarantee substantive equality for women, children, LGBTIQ+ people, people with disabilities, and other groups at risk of being disadvantaged in the procedure (including potentially due to multiple aspects of their identity or circumstances).[42] SDPs are also essential to identify stateless children among migrant populations and ensure that the rights they are entitled to are upheld until they acquire a nationality. States should therefore put in place measures to address difficulties providing testimony and documentary evidence, assume a greater share of the burden of proof, adhere to the best interests of the child principle, and put additional safeguards in place such as prioritising the processing of claims by children and other vulnerable groups. Vulnerable applicants should also be provided with legal representatives, interviewers, and interpreters who are appropriately trained (for

example, in child-rights-based or gender-based interviewing techniques) and aware of any cultural sensitivities or relevant personal facts about the applicant, and are of the same gender as the applicant. States should also consider that nationality laws may discriminate directly or indirectly against women and other groups, and that legislative provisions which appear gender neutral may have a disproportionately negative impact on the enjoyment of the right to nationality by women, girls, and people identifying as LGBTIQ+.

Some countries have introduced measures to prevent discrimination against children and people with disabilities, but there is little or no evidence of effective measures to guarantee substantive equality for women and other groups at risk of (multiple) disadvantage in SDPs. In relation to children, in **Albania**, **Bulgaria, Georgia, France**, and the **United Kingdom**, a child applicant will only be interviewed if their legal representative or guardian is present. In **Latvia** and **Montenegro,** the law requires consideration of the best interests of the child and principles of equality and non-discrimination.

More broadly, in some countries, such as **Ukraine**, **Moldova**, and **Hungary**, the law recognises the additional support needs of some vulnerable groups such as unaccompanied minors, people with disabilities, and people with language, literacy, or health-related barriers, but practical measures are not always implemented. The bylaws of **Ukraine** provide for the possibility of the competent authority to carry out a home visit or visit to a medical institution to interview the applicant, and in **Moldova** people with disabilities can be accompanied by a carer. In **Hungary** and the **United Kingdom**, although there are some considerations made for children and other groups in the law or guidance for authorities, this is not always followed in practice.

In most other countries, procedures are applied to children and other vulnerable groups without adaptation from the general SDP, and the burden of proof remains with the applicant. With the exception of **France**, **Hungary** and **Moldova**, it is unclear whether unaccompanied children are provided with a guardian or granted legal aid.[43] In some countries, such as **Türkiye**, there are special provisions for unaccompanied children in international protection procedures, but these do not extend to the SDP.

Guidance for decision-makers and reliable country of origin information

For an adequate assessment of a statelessness claim, determining authorities should benefit from clear guidance, including accurate and reliable country of origin information relating to statelessness, to assist in establishing the material facts and circumstances.

In some countries, guidance is provided on the assessment of statelessness applications, either in law or in additional guidelines issued for decision-makers – including in **Hungary,** the **Netherlands, Ukraine,** and the **United Kingdom**. In **Moldova, Spain**, and **Türkiye** this guidance is not publicly available. Some countries have also produced country of origin information specifically on statelessness, including **France**, the **Netherlands** and the **United Kingdom**. In other countries, decision-makers rely on information produced by NGOs, such as Asylos, and regional and international organisations, such as the EU Asylum Agency.

Remaining barriers include that in several countries, including **Albania**, **Bulgaria, France, Georgia**, **Italy**, **Kosovo, Latvia**, and **Montenegro,** competent authorities lack sufficient guidance on how to assess SDP applications. There is also a lack of comprehensive and consistent country of origin information on statelessness, and in most countries, it is unclear to what extent decision-makers rely on the resources published by civil society or international or regional organisations.

Errors in decision-making

Clear and standardised guidance and resources for decision-makers impacts on the quality of decisions, and is critical to avoiding significant errors in decision-making.[44]

Some countries report common errors in decision-making, including in relation to admissibility criteria, failure to examine relevant evidence, and failure to implement higher judicial decisions or case law from

regional courts. Legal practitioners and civil society organisations report several such errors in **Bulgaria**, **Hungary**, **Spain**, and the **United Kingdom**, for example.

A common error in several countries relates to the treatment of stateless Palestinians. Palestinians who do not hold the nationality of another country should be considered stateless. However, as research has shown,[45] there are divergent approaches across Europe, often based on a lack of statelessness-related expertise and information about the situation in UNRWA's areas of operation, the validity of travel and residence documents, and the incorrect assumption that the recognition of Palestine as a State has an influence on the status of Palestinians as stateless. This leads to inconsistent decision-making by competent authorities and courts.[46]

There is developing jurisprudence in regional and national courts on this issue. For example, in June 2024 the CJEU held that stateless Palestinians should be granted refugee status if UNRWA protection is believed to have ceased.[47] In **Hungary**, the practice of the authorities of rejecting applications by stateless Palestinians on the grounds that Palestine is recognised as a State by the United Nations has been challenged in court. Applications for statelessness status by Palestinians in **Bulgaria** are reportedly automatically rejected on similar grounds. **Swiss** courts have restrictively interpreted the 1954 Convention as excluding Palestinians from protection in certain circumstances.

3.5. PROCEDURAL SAFEGUARDS

RECOMMENDED BEST PRACTICE

- (Free where available) legal aid is offered to all applicants on the same basis as asylum applicants.
- Applicants have the right to an individual interview.
- Applicants have the right to (free) interpreting and translation.
- Quality assurance audits of the procedure are undertaken.
- Access to UNHCR is guaranteed as a safeguard in the procedure.
- Decisions are given in writing with reasons.
- There is a time limit for decisions, and it is no more than six months (except in exceptional circumstances where it should be no more than 12 months).
- Referral mechanisms are in place including cross-referral between asylum procedures and the SDP.

There are several minimum procedural safeguards that must be provided for in an SDP. Applicants should be offered free legal aid, interpreting, and translation services on the same basis as asylum applicants. They should have the right to an individual interview and necessary assistance to ensure they can present their situation and clarify any questions material to their application.[48] In particular, for child applicants, there should be child-rights-based adaptations and procedural safeguards in place, including *ex officio* initiation of the SDP, prioritisation in the processing of claims and provision of adequately trained legal representatives, interviewers, guardians and interpreters (where appropriate).[49] The determination should be carried out expeditiously and decisions issued in writing within an established, reasonable time limit of no longer than six months (or twelve months in exceptional circumstances).[50] There should be a mechanism for cross-referral between the SDP and asylum procedures (giving primacy to the asylum claim), and procedures to recognise or grant nationality, should an entitlement to nationality become apparent during the procedure. The SDP should be subject to regular quality-assurance audits and UNHCR should be guaranteed access to the procedure as an additional safeguard.

Access to legal aid

Legal aid should be offered to all applicants on the same basis as asylum applicants. If State funded legal aid is available, it should be provided to stateless claimants. If there is no State funded legal aid but asylum claimants can access legal aid free of charge, the same level of access should be provided to stateless people.

Access to legal aid varies greatly between countries. Some offer no legal aid at all for a statelessness application, while others make it subject to a strict eligibility test. In **Hungary** and **Ukraine**, free legal aid is available to all applicants at all stages of the procedure.

In several countries, access to legal aid is restricted to applicants who meet strict income or residence requirements, excluding many stateless people who lack documentation or lawful status. This is the case in **Switzerland**, where legal aid is only available to those who meet low-income requirements and applicants must also show they have some prospect of success. In **France**, legal aid is only available to those with lawful and habitual residence, with no exemption for SDP applicants (unlike for asylum seekers), and in **Spain** it is only accessible to those admitted to an asylum reception centre. In parts of the **United Kingdom** (England and Wales), applicants for statelessness leave only qualify for legal aid if they are unaccompanied minors or, in some cases, survivors of trafficking or qualify for Exceptional Cases Funding, but this is difficult to access in practice. In **Italy** and **Latvia**, legal aid is deemed unnecessary for administrative procedures and is only available in judicial procedures.

In some countries, such as in **Türkiye**, legal aid is foreseen in law, but it is unclear whether stateless applicants can access it in practice. Some countries do not provide legal aid for statelessness procedures in their legal frameworks and rely on NGOs and UNHCR to provide legal assistance (e.g. **Bulgaria**, **Czechia**, **Georgia**, **Kosovo**, and **Montenegro**), raising concerns about sustainability and limited capacity.

Access to an interview, interpretation, and translation

Applicants for statelessness status should always have the right to an individual interview, and to (free) interpreting and translation during the process.

In **Hungary** and **Moldova**, interviews are mandatory in all cases and interpreters are provided if required. In **Albania, Bulgaria**, **Czechia**, **Italy** (judicial procedure), **Kosovo**, **Türkiye** and **Ukraine**, all applicants have the right to an interview, and interpretation is available in most countries although it is unclear whether it is offered consistently in practice.

In **Georgia**, interviews are not mandatory and are at the competent authority's discretion but, in practice they are held in most cases, and UNHCR and the Ombudsperson may attend interviews. In **Latvia**, **France,** and the **United Kingdom,** interviews are permitted but only take place in certain circumstances, usually where the decision-maker requires further information. In the **United Kingdom,** there are examples of applications being refused without interview, as well as applicants being unable to attend interviews due to travel costs. A UNHCR audit revealed that interviews occurred in only 2% of the cases audited.

In other countries, including **Belgium**, **Montenegro**, **Spain**, and **Switzerland**, interviews are not guaranteed, and decisions may be based solely on written evidence.

Time-limits and reasoning of the decisions

States are encouraged to incorporate safeguards to issue first instance decisions in writing with reasons, not more than six months from submission of an application, or 12 months in exceptional circumstances.[51]

In **Albania**, **Czechia**, **Georgia**, **Kosovo, Moldova, Montenegro**, and **Ukraine**, the authorities must examine an application within six months, although this can be extended with exceptional reasoning. The time limit is even shorter in **Latvia**, **Spain**, and **Türkiye** (three months), although these can be extended in complex cases and are often surpassed.

Decisions are given in writing with reasons in most countries with a procedure to determine statelessness, although in **Moldova**, the **Netherlands**, and the **United Kingdom** only for negative decisions.

As to the remaining barriers, long delays are reported in many countries, which often exceed established time limits. In **Bulgaria**, cases of 'silent rejection' have been reported whereby the six-month time limit expires without a decision being communicated. **Italy** has a very long 895-day time limit in the administrative procedure, and cases are known to last much longer than this, with the longest reported to have lasted 13 years. In **France**, there is no time limit for decisions resulting in long delays up to two or three years.

There are also issues with the reasoning provided with the decisions. In **France**, in practice the reason given is often vague, such as 'journey not established' and/or 'vague statements from the applicant'. In **Ukraine** and **Türkiye**, it has been reported in practice that decisions are not always given in writing with reasons.

Quality assurance

States should regularly undertake quality assurance audits of the procedure, and guarantee access to UNHCR as a safeguard. In most Index countries, UNHCR has a role in the procedure or access to case files, although the level of involvement varies. In some countries it also provides training, guidance, and other technical support to the authorities. In **Latvia**, the competent authority consults UNHCR on individual cases from time to time and asks queries about nationality laws and practices in different countries. An internal quality assurance system in the **United Kingdom** requires at least one decision per examiner to be reviewed each month, and UNHCR undertook a detailed audit of the SDP in 2020. In **Georgia**, quality assurance work by UNHCR and the competent authority in 2021 resulted in the adoption of specific action points under the 2023 Statelessness Action Plan.

Despite these safeguards in some countries, overall, there is a lack of quality assurance mechanisms in statelessness procedures, and the role of UNHCR is often limited. In **Switzerland**, there is no quality assurance mechanism and UNHCR does not participate or have access to applicants' files. In **France**, quality assurance audits of first-instance decisions are jointly carried out by UNHCR and the competent authority in asylum procedures but not in the SDP.

GOOD PRACTICE: PROCEDURAL SAFEGUARDS IN UKRAINE

In Ukraine, applicants have access to free legal aid at any stage of the process, and undocumented people can also access legal aid in proceedings related to the issuance of an identification document. Applicants have the right to an interview and, in practice, these are conducted in every case. The law provides that an interpreter and free translation at the application stage are mandatory (although in practice there are issues with access to these). Decisions must be given in writing within six months (or a maximum of 12 months), and are usually decided within this period. There is a mechanism to refer to the asylum procedure or determination of Ukrainian nationality.

Referral mechanisms between the refugee status determination procedure and the SDP

It is recommended that cross-referral systems should exist in cases where the refugee status and statelessness determination procedures are not conducted in a joint framework, respecting the primacy of the asylum claim (see Section 4.1).[52]

In **Moldova**, cross-referral mechanisms are in place between the SDP and asylum procedures. The SDP is suspended if an asylum application is made and resumed if refugee (or subsidiary protection) status is refused. In **Spain**, **Switzerland**, and the **United Kingdom**, the competent authority can refer people refused asylum to the SDP, but this rarely happens in practice.

In **France**, if refugee status is granted to a stateless person in France, they are formally granted 'stateless-refugee' status so there is no need to initiate a separate SDP. However, if refused asylum, the competent authority cannot activate the SDP but can inform an individual about the possibility of applying to the SDP. In other countries, although there is no formal referral mechanism, the asylum and statelessness determination procedures may be linked in law or practice if an SDP applicant applies for asylum, or if it is believed an asylum applicant may be stateless. A judicial court in **Italy** has also considered both claims in the same procedure.[53]

Where an asylum application is made, the SDP application is often suspended, and resumed if the asylum application is refused, to respect the primacy of asylum claims and protect the applicant from contact with the authorities of the country origin.

However, barriers remain across Europe, as most Index countries do not have formal referral mechanisms between the asylum and statelessness determination procedures, or these are rarely applied in practice. Referral may only happen in individual cases on an *ad hoc* basis, or depend on the provision of information by the decision maker to the applicant if they are refused asylum. In some countries a new application must be made (e.g. **Latvia** and the **United Kingdom)**, and in others, such as **Türkiye**, if a stateless refugee is granted international protection status they cannot simultaneously apply for statelessness status.

3.6. PROTECTION DURING THE PROCEDURE

RECOMMENDED BEST PRACTICE

- Applicants have access to Convention rights based on presence and being 'lawfully in' the territory (i.e., identity documents, self-employment, freedom of movement, protection against expulsion). It is recommended that applicants for statelessness status receive the same treatment as asylum-seekers.
- Applicants are entitled to engage in wage-earning employment and receive assistance to access basic rights (e.g., healthcare, shelter, social security).
- Applicants are not at risk of detention or expulsion during the SDP procedure.

During an SDP, applicants should be considered to be '*lawfully in*' the State for the purposes of the 1954 Convention.[54] They are therefore entitled to all rights based on jurisdiction, presence in the territory and lawful stay, including access to identity documents, the right to engage in wage-earning employment and self-employment, access healthcare, education, shelter and social security, freedom of movement, and protection from expulsion and detention. As this is similar to the protection granted to asylum-seekers under the 1951 Convention relating to the Status of Refugees, it is recommended that applicants for statelessness status are granted the same rights as asylum-seekers. Residence rights for applicants for statelessness status vary considerably between countries, and few countries adhere to the norms on protection during the procedure. **Moldova** and **Georgia** are the only Index countries to be assessed positively in this area.

Right to stay, identity documents, and protection against detention and expulsion

Some countries consider applicants for statelessness status to be lawfully staying and issue a temporary certificate, travel document or identity card, protecting them from detention and expulsion (e.g. **Georgia**, **Moldova**, **Montenegro**). In others, an applicant's stay is 'tolerated' rather than lawful (e.g. **Kosovo**), and in some, only those who have resided for a specific period of time in the country may acquire the right to stay during the procedure (e.g. in **Albania** this is only granted if the individual has resided for one year in the country). Sometimes a discretionary residence permit is granted to applicants for statelessness status, but in other countries, applicants who have no residence permit are at risk of expulsion and/or detention (e.g. **Belgium**, **Bulgaria, France**, **Hungary**, **Spain**, **Switzerland**, **Türkiye**, **Ukraine**, and the **United Kingdom**).

Furthermore, some countries will not grant statelessness status to applicants who already have a pending removal order (e.g. **Spain** and **Hungary**).

Access to social and economic rights

Few countries grant socio-economic rights to applicants for statelessness status who do not have a residence permit on another basis. Some form of very basic welfare or healthcare assistance may be available, but this is often restricted. In some countries, applicants have the right to work (e.g. **Moldova, Georgia**, and **Ukraine**), but this may be restricted by additional requirements to obtain special permission (such as in **Ukraine**) or may not entitle them to any social assistance or pension (e.g. **Georgia**). Access to basic emergency healthcare is provided in most countries (e.g. in **Georgia**, **France,** the **UK,** and **Switzerland**), but access to other medical treatments or other rights is limited. In several countries applicants do not have the right to work, and in **Kosovo** and **Bulgaria**, for example, applicants have no economic or social rights at all.

GOOD PRACTICE: PROTECTION FOR STATELESS APPLICANTS IN MOLDOVA

In Moldova, applicants for statelessness status are considered to be lawfully staying in the country, will not be detained after submitting an application, and cannot be expelled during the assessment. They are informed of their rights in writing in a language they understand (with access to interpreters if necessary) and are issued with a temporary identity document, the right to work, and to housing (although in practice social housing is rarely available). Applicants in employment have access to social security entitlements. An individual may apply for statelessness status whilst detained in immigration detention, in which case the authorities may carry out the assessment in detention, but will release them if statelessness is recognised or the time limit for detention expires.

3.7. APPEAL RIGHTS

RECOMMENDED BEST PRACTICE

- There is an effective right of appeal to an independent body against first instance decisions.
- Applicants have access to (free where available) legal aid and access to legal counsel.

There should be an effective right of appeal to an independent body against a negative first instance decision refusing statelessness status or recognition. Applicants should have access to free legal aid and to legal counsel for the appeal. The appeal procedure should be free of charge or, where there are fees, these should be covered by legal aid for applicants who lack financial means.

There is a right of appeal to an independent body in all countries with a procedure to determine statelessness, except the **United Kingdom**, where applicants can only request a review of the lawfulness of the decision but not the facts of the case. In **Belgium** and the **Netherlands**, the right of appeal is limited and depends on whether the applicant is appealing an administrative or a judicial decision. There is good practice, for example in **Moldova**, where the right of appeal is automatic, there are no fees and free legal aid is provided.

Some countries impose court fees, and fee waivers are not always available for applicants for statelessness status. In **Albania**, **Montenegro** and **Switzerland**, court fees can be waived if the applicant meets certain eligibility requirements (usually based on income). In others, however, high fees can hinder access to an appeal (e.g. in **Albania**, **Belgium**, **Bulgaria**, **Georgia**, **Latvia**, **Ukraine**, and the **United Kingdom**). Fee

waivers are possible in certain circumstances but not in **Georgia**, where applicants for the SDP are not exempted from fees (unlike asylum seekers). In **Spain** and **Switzerland**, appellants can become liable for costs if their appeal is rejected.

In general, free legal aid is available for appeals, but in some countries, this may depend on financial and other eligibility criteria that can impact on access to an appeal (e.g. in **Albania, Italy, Switzerland,** and the **United Kingdom**). Some countries do not provide for legal aid for statelessness procedures (e.g. **Türkiye**, **Georgia** and some jurisdictions in the **UK**, i.e. England & Wales). NGOs often step in to fill gaps in legal assistance, but these services can be subject to funding cuts.

In some countries, the deadline for applicants to submit an appeal against a negative decision to grant them statelessness status is very short, and applicants may not have sufficient time to review the decision, appoint a representative and prepare their appeal. For example, applicants in **Bulgaria** must submit an appeal or judicial review within 14 days, in **Hungary** within 15 days, in **Ukraine** within 20 days, and in **Georgia** within one month.

GOOD PRACTICE: RIGHT OF APPEAL IN MONTENEGRO

Applicants who are refused statelessness status in Montenegro have the right to appeal a negative decision to the central decision-making authority. If rejected, they can further appeal to the Administrative Court. Free legal assistance may be provided by civil society organisations in the first and second instance procedures, and free State-funded legal aid is available for the judicial appeal before the court. There is a low administrative fee of EUR 4 for appeals, which can be waived in some cases.

3.8. STATELESSNESS STATUS

RECOMMENDED BEST PRACTICE

- Recognition of statelessness results in automatic permission to stay and renewable residence rights for minimum two years (preferably up to five years), with a route to permanent residence and/or naturalisation.
- State grants recognised stateless people other Convention rights, including:
- A travel document and identity documents
- Family reunification
- Permission to work
- Primary, secondary, and higher education
- Social security and healthcare
- Right to vote
- Stateless people habitually resident in the State are able to access consular protection abroad from that State.
- Any revocation or cessation of residence rights based on statelessness (if the person acquires a nationality) is subject to a proportionality test under international human rights law.

Recognition of a person as stateless must lead to the granting of statelessness status. This should include a renewable right to reside on the territory for a minimum of two years, and preferably up to five years, to enable stateless people to access all the rights protected by the 1954 Convention. These rights include a travel document, identity documents, family reunification, permission to work, primary, secondary and higher

education, social security, and healthcare. In addition, people recognised as stateless may have rights to family reunification (under the ECHR, CRC or other law) and States should consider granting recognised stateless persons the right to vote, in line with democratic principles. Stateless people habitually resident in the State must be able to access consular protection abroad from that State. Any revocation or cessation of statelessness status should be subject to a proportionality test under international human rights law.

Right of residence

In almost all countries with a procedure to determine statelessness, this leads to a form of statelessness status or leave to remain, including the ability to acquire a residence permit and at least some 1954 Convention rights. In two Index countries (**Spain** and **Moldova**), recognised stateless people are automatically granted permanent residence along with access to education, healthcare, housing, and social security on the same basis as nationals, as well as a route to naturalisation (although this is lengthy).

In others (e.g. **Albania**, **France**, **Georgia**, **Hungary**, **Italy**, the **United Kingdom**, and **Türkiye**) recognised stateless people are automatically granted a renewable residence permit ranging from two to five years, usually with a right to apply for permanent residence after a specific period (ranging from 5 to 10 years).

In other countries, a residence permit may only be granted for one year initially, and/or there may be additional conditions that pose insurmountable barriers for some stateless people to acquire a residence permit. For example, in **Czechia**, recognised stateless persons receive a one-year tolerated stay visa, after which they may apply for a renewable two-year residence permit. In **Bulgaria**, stateless people can only acquire a residence permit if they can provide proof of subsistence, accommodation, and medical insurance, and pay a fee the equivalent of 250 EUR. In **Montenegro**, a recognised stateless person must prove sufficient income, accommodation, an identity document, and health insurance. In **Ukraine**, stateless people must apply for a temporary residence permit within the short timeframe of ten days following recognition. In the **Netherlands**, stateless people do not have the right to a residence permit at all based purely on being determined to be stateless. In **Belgium**, stateless people recognised through the judicial procedure must additionally apply for a discretionary permit to stay on humanitarian grounds, and under the administrative procedure they are granted a five-year residence permit but additional criteria apply.

Country	Type of permit	Initial duration	Subsequent permits
Bulgaria	Residence permit, upon application & additional criteria	1 year	Renewable
Belgium	Humanitarian permit, upon application (administrative procedure only)	Discretionary	Discretionary
Czechia	Tolerated stay, automatic	1 year	Renewable for 2-year periods, permanent after 5 years (upon application)
France	Residence permit, automatic	4 years	10-year permit
Georgia	Residence permit, automatic	3 years (exceptionally 5)	Renewable, permanent after 12 years
Hungary	Residence permit, automatic	3 years	Renewable for 1-year periods
Italy	Residence permit, upon application	1-5 years (practice varies)	Renewable
Kosovo	Residence permit, automatic	1 year	Renewable for 1-year periods, permanent after 5 years
Latvia	Residence permit, upon application	5 years (max.)	Permanent (subject to additional criteria)
Moldova	Residence permit, automatic	Permanent	N/A
Montenegro	Permission to stay, upon application & additional criteria	1 year	Renewable for 1-year periods
Netherlands	-	-	-

Spain	Residence permit, automatic	Permanent	N/A
Switzerland	Residence permit, upon application	1 year	Renewable for 1-year periods, permanent after 10 years (at authorities' discretion)
Türkiye	Right to stay automatic, residence permit upon application	2 years	Automatically renewed for 2-year periods
Ukraine	Residence permit, upon application	1 year	Renewable for 1-year periods, permanent after 2 years (upon application)
United Kingdom	Residence permit, upon application	60 months	Renewable, permanent after 1-5 years (specific conditions apply)

Economic and social rights

Most countries grant the right to work, education, and some form of healthcare, but access to certain socio-economic rights is sometimes restricted for recognised stateless people until they acquire permanent residence. This is the case, for example, in **Ukraine**, where the right to work and a travel document are granted upon acquiring a residence permit, but other rights, such as family reunification, social security, and free healthcare, are only granted once permanent residence is acquired. In **Hungary**, access to the labour market is limited, particularly because access to employment is contingent on obtaining a work permit. Stateless people have access to education, but access to social security is linked to employment contributions, meaning stateless persons' automatic entitlements are limited to emergency healthcare. In **Kosovo** and **Albania**, issues have been reported with access to rights in practice, despite provisions in law for recognised stateless people. In **Bulgaria**, temporary residence permits provide protection from detention but do not grant other socio-economic rights such as the right to work or healthcare. People recognised as stateless are not automatically granted any economic or social rights in the **Netherlands** and in **Belgium** (judicial procedure), and in **Czechia** there are limitations on the right to social security and family reunification. In **Belgium** (administrative procedure), people granted a residence permit have the right to healthcare, social security, education, and housing but there are limitations on work, family reunification, and travel and identity documents.

Travel documents, identity documents, and diplomatic protection

Most Index countries issue a travel document to recognised stateless people, but, in some countries, this is not automatic and an application is required (e.g. **France**, **Georgia**, **Italy**, **Moldova**, **Montenegro**, **Türkiye**, and **the United Kingdom**). There are sometimes other requirements, such as paying a fee (e.g. in **France**, **Italy**, and the **United Kingdom**), or having long-term residence (e.g. in **Bulgaria**). The validity of travel documents varies (e.g. two years in **Albania**, **Bulgaria**, **Georgia**, and **Spain** and one year in **Montenegro**) and they are sometimes not recognised for certain administrative procedures or for international travel, or may only allow a single entry into or exit from a country (e.g. in **Türkiye**).

In addition to travel documents, in some countries, recognised stateless people are also issued an identity card (e.g. **Georgia**, **Türkiye** and **Moldova**, and **Italy** upon application). The Statelessness Index collates examples of travel and identity documents issued to stateless people in different countries.[55]

There is limited information about whether stateless people habitually resident in a State may access consular protection abroad from that State. Most countries do not provide consular protection explicitly in the law, or if they do, there are no reported cases in practice. States should seek to address this gap by establishing and giving effect to the right to consular protection for recognised stateless people habitually resident on their territory. As a positive example, recognised stateless people with a travel document from **Bulgaria** have

access to consular protection abroad and may be issued a certificate for return to Bulgaria if their documents have expired, are lost, stolen, or damaged while abroad.

Family reunification

In several countries, including **Bulgaria**, **Georgia**, and **Italy**, stateless people do not have the right to family reunification unless they have a residence permit based on another status. In **Hungary**, family reunification is subject to conditions such as proof of means of livelihood, accommodation, and health insurance; and family members applying to join a relative in Hungary are required to be lawfully resident in the country from which they apply. In **Switzerland**, family reunification is discretionary for holders of a temporary residence permit, but non-discretionary for permanent residents, and various conditions apply.

GOOD PRACTICE: STATELESSNESS PROTECTION IN SPAIN

Recognition of statelessness in Spain results in automatic permission to stay and a permanent right to reside. Identity and travel documents are issued. Identity cards are renewable every five years, and stateless persons' travel documents are valid for two years. Stateless people have the right to family reunification, work, education up to tertiary education, social security, and healthcare. The law also sets out specific situations in which statelessness status ceases or can be revoked, such as absence from the European Union for one year or Spanish territory for six years, fraud, or acquisition of a nationality.

Right to vote

In most countries, recognised stateless people have very limited political rights, if any. The right to vote tends to be reserved to nationals and/or EU citizens in the case of EU Member States. Stateless people are usually excluded from voting in national elections. However, recognised stateless people have the right to vote in **Belgium**, in Cantonal and local elections in **Switzerland**, and in devolved national elections in parts of the **United Kingdom** (Scotland and Wales only). In **Hungary**, recognised stateless people have the right to vote in municipal elections, but only if they hold permanent residence, refugee status, or subsidiary protection.

Revocation of statelessness status

Any revocation or cessation of residence rights based on statelessness (if the person acquires a nationality) should be subject to a proportionality test under international human rights law. In most Index countries, statelessness status may be revoked without a proportionality assessment. For example, if a recognised stateless person subsequently acquires or reacquires the nationality of another State this may justify the cancellation of a residence permit on the basis of statelessness. Nonetheless, a proportionality assessment should be caried out, including to consider the impact of such a decision on the individual's right to a private and family life.

Examples of the conditions under which some countries permit revocation of statelessness status include acquisition of a nationality (e.g. in **Georgia, Hungary**, **Kosovo,** and **Türkiye**), receiving protection under the 1954 Convention from another country (**Georgia**), acquisition of statelessness status by fraud (**Bulgaria**, **Georgia**, **Hungary**, **Switzerland**, **Türkiye**, and the **United Kingdom**), or if the person is considered to pose a danger to public safety or security (**Georgia**, **Türkiye**, and the **United Kingdom**). In most countries revocation of statelessness status requires a proportionality assessment (e.g. in **Georgia**, **Switzerland**, and **Bulgaria**), although it is not always explicitly required in law.

3.9. ROUTES TO NATURALISATION

RECOMMENDED BEST PRACTICE

- State expedites naturalisation procedures for stateless people providing preferential treatment compared to the general rules for foreign nationals.
- Stateless people are exempted from requirements such as nationality or integration tests, language testing, application fees, or minimum income requirements for naturalisation.
- Previous criminal convictions or 'good character' requirements do not unreasonably prevent stateless people from naturalising.
- Nationality laws, rules, procedures, policies, and practices do not discriminate, including against minorities or marginalised groups, directly or indirectly.

The only way to resolve statelessness is to acquire a nationality. To reduce statelessness in the migratory context, the 1954 Convention requires that States parties facilitate naturalisation for stateless people on their territory as far as possible.[56] States should expedite naturalisation procedures for stateless people, providing preferential treatment compared to the general rules for foreign nationals.[57] This could include exempting stateless people from requirements such as citizenship or integration tests, language testing, application fees, or minimum income requirements. Previous criminal convictions or 'good character' requirements should also not unreasonably prevent stateless people from naturalising.[58] Moreover, nationality laws, rules, procedures, policies, and practices should not discriminate, including against minorities or marginalised groups, directly or indirectly.[59]

Stateless people face significant barriers to naturalisation in all countries. In some countries there are no favourable provisions for stateless people even where there are for other groups such as refugees (e.g. in **France**, **Latvia**, and **Spain**).

Residence requirements

Residence requirements for naturalisation vary significantly between countries. In some countries, stateless people benefit from a reduced residence requirement in line with refugees, but this is not consistent across all Index countries. In **Greece**, **Ireland**, and **Norway**, countries that do not have a procedure to determine statelessness, stateless people can apply for naturalisation after three years' lawful stay (reduced from seven in Greece, five in Ireland and eight in Norway). However, the lack of an SDP in these countries makes it difficult for stateless people to evidence eligibility for the reduced requirements and few are able to access the facilitated routes.

In countries that have a procedure to determine statelessness, the residence requirement usually ranges between three years (e.g. in the **Netherlands** and **Ukraine**) to five years (e.g. in **France**, **Georgia**, **Italy**, **Kosovo, Latvia**, and **Türkiye**). In **Italy**, a 2023 judgment clarified that, given the declaratory nature of statelessness status, the residence requirement for naturalisation does not need to be 'lawful'.

Some countries have much longer residence requirements, which unduly prolong stateless people's access to a nationality (e.g. **Montenegro**, **Spain**, and **Latvia** where the residence requirement is ten years). In some countries the residence requirement is relatively short, but it only applies to those holding permanent residence (e.g. in **Belgium**, **Bulgaria** and **Hungary**), which is difficult and lengthy to obtain in practice. Other countries impose further requirements for stateless people to access facilitated naturalisation, such as **Türkiye**, where it is limited to holders of a stateless person's ID document, and in **Switzerland**, where it only applies to stateless people married to Swiss nationals and stateless children who comply with integration criteria.

Fees, nationality and language tests, and income requirements

To facilitate naturalisation, stateless people should be exempted from requirements such as nationality or integration tests, language testing, application fees, or minimum income requirements for naturalisation.

In most countries, naturalisation fees apply. In some, they are under 100 EUR (e.g. **Albania**, **Bulgaria**, **France**, **Latvia**, **Moldova** and **Switzerland**), but in others they are much more. The naturalisation fees are prohibitively high in countries such as the **United Kingdom**, with each adult application costing the equivalent of over 2,000 EUR. In **Austria**, the fees are between 1,300-2,600 EUR, and in the **Netherlands**, the reduced fee for stateless people and refugees is 760 EUR. Some countries reduce the fee for children, but **Georgia** is the only Index country that offers a specific fee exemption for stateless people.

Stateless people are very rarely exempted from language, citizenship, or integration tests, except in **Albania** and **Montenegro** where they are exempt from some requirements such as income, language, and property ownership. Some countries exempt stateless people from providing certain documentation (e.g. **Türkiye** and **Ukraine**), but not from eligibility criteria. In **Georgia**, adult stateless people are not exempted from naturalisation requirements such as the language, history, and legal system test, but some exemptions apply to stateless children and children with refugee status. Some countries also apply a minimum income requirement, or require that the applicant is not dependant on social security.

There are additional barriers related to the documentation required in some countries, e.g. in the **Netherlands** stateless people are exempt from providing a passport, but they must still provide a birth certificate.

'Good character' and previous criminal convictions requirements

In most countries, applicants must not have criminal convictions and should not pose a threat to national security (e.g. in **Albania, Georgia, Hungary**, **Montenegro, Türkiye**). In two Index countries, applicants must also not have any pending criminal proceedings (**Hungary** and **Kosovo**). However, best practice recommends that previous criminal convictions or 'good character' requirements do not unreasonably prevent stateless people from naturalising.

Some countries apply discretionary 'good character' requirements that are not based on criminal convictions and may unduly prevent stateless people from acquiring a nationality. For example, in the **United Kingdom**, the 'good character' requirement is discretionary and includes having 'reasonable grounds to suspect they have been involved in a crime', and in **France** the prefecture conducts an inquiry to check the applicant's civic conduct (including their tax records). In the landmark *JY* case in 2022, the CJEU ruled that **Austria** must conduct a proportionality assessment before revoking an assurance of nationality, even if the applicant commits minor offences (such as road traffic offences), a ruling that also applies to other EU Member States.[60]

3.10. TRENDS IN COUNTRIES WITHOUT A DEDICATED PROTECTION STATUS

20 of the 34 countries in the Statelessness Index do not have a dedicated protection status for stateless people, even if they have a procedure to determine statelessness.[61] 18 of these 20 are party to the 1954 Convention[62] but have not yet introduced an effective mechanism through which to identify stateless people on their territory, or to effectively grant them rights and protection on the basis of statelessness in line with their obligations under the Convention.

Some Index countries have recently taken steps towards introducing SDPs. For example, since acceding to the 1954 Convention in 2019, **Malta** has been discussing the establishment of an SDP with UNHCR and civil society experts. During the Global Refugee Forum in December 2019, **Portugal** pledged to 'establish mechanisms to identify, protect, prevent and reduce statelessness 'and to 'provide for the issuance of Convention travel documents for refugees and stateless persons according to international standards'.[63] In 2023, it adopted a law establishing that stateless people are entitled to statelessness status and Parliament is developing bylaws to operationalise the procedure. There have also been discussions in **Ireland,** but these

have not yet led to concrete progress towards introducing an SDP. The new government in **Austria** has included a commitment to evaluate the introduction of an SDP in their five-year policy program.

Most countries in the Index that do not have a procedure to determine statelessness have other routes through which stateless people may regularise their stay (e.g. **Austria**, **Croatia**, **Cyprus**, **Greece**, **Ireland**, **Norway**, and **Sweden)**. This is usually in the context of an application for asylum, a residence permit, or acquisition of nationality, but there is no obligation on the authorities to consider statelessness, and regularisation rarely leads to any rights linked to statelessness *per se*. The protection available therefore depends on the rights attached to the type of residence or protection status an individual can acquire and is usually not in line with the 1954 Convention and international human rights law. In **Bosnia and Herzegovina, Malta,** and **North Macedonia**, there are other routes to regularisation for some stateless people, but there are no mechanisms with the aim to identify statelessness beyond the *ad hoc* possibility of recording someone as stateless during international protection procedures or procedures to grant residence on humanitarian grounds.

In **Serbia**, a statelessness status is established in law, granting some specific rights to stateless people. However, there is no procedure to determine or regulate this status or statelessness determination is only done in *ad hoc* and time-specific procedures, so stateless people on the territory face significant barriers to accessing the rights they are due under national and international law.

A group of Index countries (**Germany**, **Poland**, **Romania**, and **Slovenia)**, provide that people recognised as stateless who cannot be returned to another country may be issued with a '*tolerated stay*' permit, which is usually of short duration (six months to two years) but renewable. Some rights may be granted, for example, to work or basic social assistance, education, and healthcare, but rights are generally restricted and not in line with the treatment afforded to stateless people under the 1954 Convention and international human rights law.

3.11. GOOD PRACTICE BEYOND EUROPE

Many countries around the world have implemented SDPs that lead to a dedicated protection status, and Latin America in particular has led the way in introducing protection mechanisms for stateless people. There are currently 16 countries outside Europe with SDPs (10 of them in Latin America).[64] Some examples of good and developing practice include:

Brazil: Brazil is party to the 1954 Convention, has a definition of a stateless person in law in line with the 1954 Convention, and established an SDP and a procedure for facilitated naturalisation. There are no exclusion clauses for the SDP, but applicants must have no criminal record in the past five years. Applicants must be physically present in Brazil, but lawful stay is not required and there is no penalty for irregular entry. Applications can be submitted online or at federal police units nationwide, and applicants are granted temporary stay during the process. The burden of proof is shared, interviews are conducted (although interpreters are not provided by law), and free legal aid is available for those who cannot afford it. There is a right of appeal and removal is suspended during the application and appeal. Recognised stateless people receive a permanent residence permit, the right to work, education, and family reunification. Naturalisation is facilitated after two years of residence, with fee waivers and document flexibility available when need.[65]

Costa Rica: Costa Rica was the first country in the Americas to ratify both the 1954 and 1961 Conventions (in 1977), establish an SDP (in 2016), and provide facilitated naturalisation (in 2017). The SDP refers to the 1954 Convention definition and includes similar exclusion clauses. Applications can be submitted in writing (online or in person), orally, or via a legal representative. If authorities identify a potentially stateless person, they must notify the Ministry of Foreign Affairs, which informs the individual of their right to apply. Applicants are allowed to stay during the procedure and receive documentation confirming this, and there is no penalty for irregular entry. Interviews are conducted, and if interpretation is needed but unaffordable, the government

must coordinate with UNHCR to provide it. Legal assistance is guaranteed, though the law does not specify how it is delivered. The burden of proof is shared, and there is a right of appeal which suspends removal. Recognised stateless people and their families receive a three-year residence permit and the right to work and access to education, albeit with some limitations. Naturalisation is facilitated after two years of official residence, and the application is free, requiring minimal documentation.[66]

Côte d'Ivoire: Côte d'Ivoire acceded to both Statelessness Conventions in 2013 and introduced Africa's first statelessness determination procedure in 2020. Two commissions were established to assess applications, allowing individuals to be recognised as stateless while retaining the option to later prove Ivorian nationality. Recognition grants access to identity documents and legal processes. A rejected application implies the applicant is considered to hold a nationality.

4. RISKS AND CHALLENGES IN IMPLEMENTING SDPs

4.1. DETERMINING STATELESSNESS AND REFUGEE STATUS

Statelessness can be both a cause and a consequence of forced migration.[67] Many refugees come from countries where discrimination in nationality laws, State succession, or deprivation of nationality practices, can mean they or their children are stateless or at risk of statelessness.[68] Statelessness can be critical at different stages of the asylum process, affecting the assessment of a claim for international protection as well as access to family reunification, resettlement, and inclusion measures (as well as the possibility of return), because stateless people are unlikely to have documentary proof of their identity and family links.[69] It also affects the nationality rights of children born to refugees. Stateless people are at risk of discrimination and rights violations if their statelessness is not identified and acted upon within international protection procedures. This has been acknowledged by the EU with the recent inclusion of new legal requirements under the EU Pact on Migration and Asylum to identify indications of statelessness as part of screening; to register, pending a determination, any claim of statelessness by an asylum applicant; and to strengthen measures to protect the fundamental rights of stateless persons and avoid discrimination in asylum procedures.[70]

If a stateless person applies for asylum, it is important to determine both their claim for international protection and their claim of statelessness. Each application should be assessed and both types of status should be explicitly recognised so that even if international protection ceases, the person remains entitled to protection as a stateless person.[71] This also helps to prevent arbitrary or unlawful detention, which can occur if a stateless person, who has no country to which they can return, is refused international protection (or their protection status ceases), and their statelessness has not been identified and determined.[72] It also enables States to comply with their international obligations to prevent and reduce statelessness, including to ensure all children born on the territory who would otherwise be stateless acquire a nationality,[73] and to facilitate the naturalisation of stateless people on their territory.[74]

Statelessness determination should be conducted either in parallel with or following the refugee status determination, with due regard to the primacy of the asylum claim and the principle of confidentiality for refugees in statelessness determination procedures.[75] In practice, this means that all SDP applicants should be informed of the importance of raising potential refugee-related concerns, and States must not disclose the identity of a refugee or asylum-seeker to the authorities of countries with which they have a link. If enquiries with authorities that could compromise confidentiality are required to determine an applicant's statelessness, the statelessness claim should be suspended until the refugee status determination is fully concluded.[76]

4.2. IMPROVING AWARENESS AND IDENTIFICATION OF STATELESSNESS

To improve the identification of statelessness and referral to SDPs to enable States to comply with their international obligations, frontline officials must be trained to identify and record statelessness and make appropriate referrals to relevant procedures.[77] Asylum, immigration, civil registry, and other public officials often lack the awareness, information, and capacity needed to identify statelessness and take appropriate action. If statelessness is missed or nationality is mis-recorded, it can present obstacles and barriers that later lead to human rights violations. States are therefore recommended to cooperate with statelessness experts, such as ENS, UNHCR,[78] stateless-led organisations, community representatives, and regional institutions such as the EU and Council of Europe to provide adequate training and resources on statelessness, ensure country of origin information contains information about statelessness and risks of statelessness as well as nationality laws and civil registration law, policy, and practice, and international standards for relevant officials and wider dissemination.

4.3. ADDRESSING THE 'PULL FACTOR' MYTH

Evidence from countries with procedures to determine statelessness shows no correlation between the number of people entering the country and the introduction of such a procedure. The numbers of people applying to SDPs in Europe remains relatively low.[79] Where no procedure is in place or when it does not lead to a protection status, stateless people are often stuck in limbo, subject to detention and failed removal attempts, with no way to regularise their stay and nowhere to go. Consequently, many face grave violations of their rights, and public authorities are faced with significant costs and wasted resources.

The introduction of an SDP provides a framework for States to determine a person's nationality status with two possible outcomes: either the person is recognised as stateless and granted the protection they are entitled to under international law, or they are recognised to be a national of another State, issued documentation and may then leave the country. Either way, introducing an SDP not only ensures that stateless people can access their rights and contribute to the societies in which they live, but assists States to find solutions for people who would otherwise remain irregularly on the margins of society, unable to either contribute or leave the country. It is also important to note that SDPs require the cooperation of the applicant, who must submit information about their circumstances, seek information from the authorities of countries with which they have links, and potentially attend interviews with consular authorities. It is therefore very unlikely that a person who does not have a compelling reason to believe they are stateless would apply for statelessness status.

4.4. REDUCING STATELESSNESS *IN SITU*

As noted in the Introduction, SDPs are not an appropriate solution to resolve situations of *in situ* statelessness where the stateless individual (or group) is a long-term resident or was born in the country and has no substantive links to another country.[80] To reduce situations of *in situ* statelessness, States should endeavour to implement measures such as restoring or granting nationality to affected individuals or groups, revising legal frameworks to remove any discriminatory provisions or practices that may lead to new cases of statelessness, and other targeted measures to ensure compliance with international norms and good practice.[81] To ensure that stateless people who may have an entitlement to nationality are identified and appropriately referred, SDPs should include a mechanism to refer people who may in fact be stateless *in situ* to a procedure to confirm their nationality.

5. CONCLUSIONS AND KEY ACTIONS

This briefing provides an overview of current law, policy, and practice on statelessness determination and protection of stateless people in Europe. It explains the rationale and importance of establishing dedicated statelessness determination procedures (SDPs) to comply with international law and good practice. Drawing on data from the Statelessness Index, the briefing highlights good practice examples and challenges, as well as some of the risks that arise when procedures and the protection available to stateless migrants and refugees fall short of international standards.

KEY ACTION AREAS

There are four key areas where urgent action is needed by Governments, legislators, and decision-makers to ensure that stateless migrants and refugees in Europe can access the rights and protection they are due under international law and resolve their statelessness.

1. INTRODUCE FAIR AND ACCESSIBLE SDPs IN LINE WITH NORMS AND GOOD PRACTICE:

- Put in place measures to ensure equal access to SDPs regardless of residence or documentation status, language, gender, ability, age or any other aspect of identity or circumstances.
- Introduce adequate procedural safeguards including the right to an interview, shared burden of proof, standard of proof in line with asylum procedures, access to legal aid, and statutory right to an independent appeal.
- Introduce specific measures to guarantee substantive equality in SDPs for women, children, people with disabilities, LGBTIQ+ people and other groups at risk of (multiple) discrimination, such as flexibility in evidential requirements, specialist training for interviewers and interpreters, consideration of the best interests of the child, etc.
- Grant applicants for statelessness status a temporary right to stay as well as the right to work, healthcare, accommodation, education, basic social security, and protection from detention and expulsion while their application is being processed.

2. ENSURE THAT SDPS LEAD TO A DEDICATED PROTECTION STATUS FOR PEOPLE RECOGNISED AS STATELESS:

- Grant a renewable residence permit to people determined to be stateless that is valid for at least two years and preferably five years.
- Issue identity and travel documents to all stateless people and guarantee the right to work, education, family reunification, healthcare, accommodation, social security, and consular protection in line with nationals, as well as the right to vote.

3. PROVIDE SPECIALISED TRAINING ON STATELESSNESS AND NATIONALITY RIGHTS AND ENSURE COOPERATION BETWEEN RELEVANT PUBLIC AUTHORITIES:

- Ensure that relevant competent authorities have the necessary expertise, guidance, and resources to effectively identify and assess statelessness and nationality issues.
- Facilitate and evaluate regular training on statelessness and nationality rights for public authorities and others who may encounter stateless people, including government bodies, lawyers, and the judiciary.
- Facilitate cooperation between public authorities who may encounter stateless people and introduce cross-referral mechanisms between asylum, detention, and statelessness determination procedures.

4. ENSURE THAT STATELESS MIGRANTS AND REFUGEES HAVE AN ACCESSIBLE ROUTE TO NATURALISATION TO RESOLVE THEIR STATELESSNESS:

- Expedite naturalisation procedures for stateless people, providing preferential treatment compared to the general rules for foreign nationals.
- Exempt stateless people from requirements such as citizenship or integration tests, language testing, application fees, or minimum income or documentation requirements, particularly those they cannot meet due to the nature of their statelessness.
- Ensure that previous criminal convictions or 'good character' requirements do not unreasonably prevent stateless people from acquiring a nationality.

REFERENCES

[1] For more information on statelessness in Europe, see https://www.statelessness.eu/issues.
[2] According to Eurostat, on average, around 1.5-2% of first-time asylum applicants to the European Economic Area each year are recorded as being stateless or of 'unknown nationality'. This is very likely an underestimate due to the limited awareness and capacity to accurately identify and record statelessness in the migratory context to date. See Eurostat, Asylum applicants by type, citizenship, age and sex - annual aggregated data (accessed 6 October 2025).
[3] For more information about the minorities affected by statelessness in Europe, see https://www.statelessness.eu/issues/stateless-minorities.
[4] UNHCR, Statelessness Determination Procedures and the Status of Stateless Persons ('Geneva Conclusions') (2010).
[5] These include, among others the International Covenant on Civil and Political Rights (see Article 24.3), the International Covenant on Economic, Social and Cultural Rights (see Articles. 2.2 and Article 3), the Convention of the Rights of the Child (see Articles 2, 3, 7 and 8), the Convention on the Elimination of All Forms of Discrimination against Women (see Article 9), the International Convention on the Elimination of All Forms of Racial Discrimination (see Article 5(d)(iii)), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, International Convention on the Rights of All Migrant Workers and Members of their Families and the Convention on the Rights of Persons with Disabilities (see Article 18), and the Universal Declaration on Human Rights (Article 15).
[6] See Executive Committee of the High Commissioner's Programme, Conclusion on Identification, Prevention and Reduction of Statelessness and Protection of Stateless Persons No. 106 (LVII) - 2006 (2006); UNHCR, 'Handbook'; UNHCR, Good Practices Paper – Action 6: Establishing Statelessness Determination Procedures to Protect Stateless Persons (2020) ('Good Practices Paper - Action 6').
[7] UNHCR, 'Handbook'.
[8] UNHCR, 'Geneva Conclusions', para. 1. See also Gyulai, G. 'The determination of statelessness and the establishment of a statelessness-specific protection regime', in Edwards, A. & Waas, L. (eds) *Nationality and Statelessness under International Law* (Cambridge University Press, 2014), pp. 116-117.
[9] UNCHR, 'Handbook', para. 144; UNHCR 'Good Practices Paper - Action 6', p. 4.
[10] UN Human Rights Committee, D.Z. v the Netherlands, CCPR/C/130/D/2918/2016, 28 December 2020, para. 10.
[11] European Court of Human Rights, Hoti v Croatia, application no 63311/14, 26 April 2018; European Court of Human Rights, Sudita Keita v Hungary, application no. 42321/15, 12 May 2020.
[12] UNHCR, 'Handbook'.
[13] The following Index countries have acceded to the 1954 Convention: Albania, Austria (with reservations), Belgium, Bosnia and Herzegovina, Bulgaria (with reservations), Croatia, Czechia (with reservations), France (with reservations), Georgia, Germany (with reservations), Greece, Hungary (with reservations), Ireland (with reservations), Italy (with reservations), Latvia (with reservations), Malta (with reservations), Moldova (with reservations), Montenegro, Netherlands (with reservations), North Macedonia, Norway, Portugal (with reservations), Romania (with reservations), Serbia, Slovenia, Spain (with reservations), Sweden (with reservations), Switzerland, Türkiye, Ukraine, and the United Kingdom (with reservations).
[14] Bulgaria, Czechia, Germany, Latvia, Moldova, Romania, Sweden, and the United Kingdom all entered reservations to provisions under Chapter IV (Welfare) of the 1954 Convention. Austria, Bulgaria, Czechia, Germany, Latvia, Moldova, and Romania all entered reservations to Article 27 of the 1954 Convention.
[15] Due to its political status, Kosovo cannot become State party to the 1954 Convention, but many safeguards deriving from this Convention have been incorporated into its national law.
[16] The Index countries that have a procedure to determine statelessness are Albania, Belgium, Bulgaria, Czechia, France, Georgia, Hungary, Italy, Latvia, Kosovo, Moldova, Montenegro, Netherlands, Spain, Switzerland, Türkiye, Ukraine, and the United Kingdom. More information on the Statelessness Index.
[17] This is an adapted version of the building blocks of a 'statelessness-specific protection mechanism', proposed in Gyulai, G. 'The determination of statelessness' (2014).
[18] 1954 Convention, Article 38(1); International Law Commission, Draft Articles on Diplomatic Protection with commentaries (Yearbook of the International Law Commission, 2006 Vol. II (Part Two)).
[19] UNHCR, 'Handbook', para. 23.
[20] 1930 Hague Convention on Certain Questions Relating to the Conflict of Nationality Laws, Articles 1 and 2.
[21] For an analysis of these terms, see Laura van Waas, 'The UN Statelessness Conventions' in Alice Edwards and Laura van Waas (eds), *Nationality and Statelessness under International Law* (Cambridge University Press, 2014), Chapter 3.
[22] UNHCR, 'Handbook', para. 99.
[23] Countries that have a narrower definition include Bosnia and Herzegovina, Bulgaria, Czechia, Georgia, Germany, Hungary, Latvia, Montenegro, the Netherlands, Serbia, and Slovenia.
[24] 1954 Convention, Article 1(2).

[25] 'Non-citizens' are a group which is defined in a separate law in Latvia as former Soviet citizens who were registered as living on the territory of Latvia on 1 July 1992 or their last registered place of residence before that date was Latvia, and their children, provided they have no other nationality.
[26] ENS, Statelessness Determination and the Protection Status of Stateless Persons (2013) ('Statelessness Determination').
[27] UNHCR, 'Handbook', para. 69; ENS, 'Statelessness Determination'.
[28] European Court of Human Rights, Sudita Keita v. Hungary, application no. 42321/15, 12 May 2020; Hungarian Constitutional Court decision 6/2015. (III. 25.), 25 March 2015. See also Cabral, P. 'Sudita Keita v. Hungary – another landmark ruling from Strasbourg on the right to private and family life of stateless people' (2020).
[29] See, e.g. Government of Georgia, Public Service Development Agency, 'Citizenship'; Government of Latvia, Office of Citizenship and Migration Affairs, 'Obtaining the status of a stateless person'; Government of France, OFPRA, 'Apply for stateless person status' (accessed 6 October 2025).
[30] See, e.g. Government of Türkiye, Presidency of Migration Management, 'Determination of Citizenship' (in English, but the information is also available in Turkish, German, Russian, Arabic, and Persian); Government of Switzerland, State Secretariat for Migration, 'Statelessness'; Government of the United Kingdom, 'Apply to stay in the UK as a stateless person'; Government of Ukraine, State Migration Service, 'Recognition as a stateless person'.
[31] UNHCR, 'Handbook', para. 68; ENS, 'Statelessness Determination'.
[32] UNHCR, 'Handbook', paras. 83-87.
[33] UNHCR, 'Handbook', para. 84; See also Gyulai, G., 'The determination of statelessness', pp. 139-140.
[34] UNHCR, 'Handbook', paras. 18 and 92.
[35] UNHCR, 'Handbook', para. 96. See also Section 4 of this briefing.
[36] Hungarian Supreme Court (Kúria), judgment no. Kfv.II.37.715/2021/6, 25 May 2022.
[37] Spanish Supreme Court (Tribunal Supremo), appeal no. 10530/2007, 20 November 2007.
[38] Italian Supreme Administrative Court, judgment no. 2294, case no. 11825/2022, 2 March 2023.
[39] UNHCR, 'Handbook', para. 91.
[40] See also UNHCR, Submission in the case of AS (Guinea) v. Secretary of State for the Home Department before the Court of Appeal (Civil Division), C5/2016/3473/A (2018).
[41] UNHCR, Statelessness Determination in the UK (2020), pp. 26-28.
[42] CEDAW, General recommendation No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women,(2014); Convention on the Rights of the Child;_Convention on the Rights- of Persons with Disabilities, Article 18; UNHCR, 'Handbook', paras. 118-121; UNHCR, Best Interests Procedure Guidelines (2021); UN Women, Gender-responsive implementation of the Global Compact (2021); European Parliament, Resolution on LGBTIQ rights in the EU (2021); UNHCR, Roundtable on Protection and Solutions for LGBTIQ+ People in Forced Displacement (2021).
[43] See further information and issues at: ENS, No child should be stateless: ensuring the right to a nationality for children in migration in Europe (2020).
[44] The availability and extent of jurisprudence varies across Europe, and readers are encouraged to consult the Statelessness Case Law Database to find examples of first instance decisions and also how higher courts have clarified the interpretation of international and regional standards at national level.
[45] ENS, Legal briefing on the rights of stateless Palestinians in the UK (2025); ENS, Briefing: Palestinians and the search for protection as refugees and stateless persons in Europe (2022); ENS and BADIL (the Resource Center for Palestinian Residency and Refugee Rights), Palestinians and the Search for Protection as Refugees and Stateless Persons (2022).
[46] For case examples and information on this issue, see ENS, Legal briefing on the rights of stateless Palestinians in the UK (2025); ENS & BADIL, Palestinians and the Search for Protection as Refugees and Stateless Persons (2022).
[47] CJEU, SN, LN, case C-563/22, 13 June 2024. In September 2024, the French CNDA implemented the CJEU judgment, granting refugee status to Palestinians from Gaza, citing that UNRWA protection had ceased (CNDA, M. et Mme S. n°23042517 and 23042541 C+, 13 September 2024).
[48] UNHCR, 'Handbook', para. 73.
[49] UNHCR, 'Handbook', paras. 118-121; Convention on the Rights of the Child.
[50] UNHCR, 'Handbook', para. 75.
[51] UNHCR, 'Handbook'.
[52] ENS, Statelessness Determination and the Protection Status of Stateless Persons (2013).
[53] Civil Court of Florence, case 7397/2019, judgment no. 6558/2021 of 29 November 2021.
[54] UNHCR, 'Handbook', para. 135.
[55] Statelessness Index: https://index.statelessness.eu/.
[56] 1954 Convention, Article 32. UNHCR, 'Good Practices Papers – Action 6'.
[57] ENS, 'Statelessness Determination and the Protection Status of Stateless Persons'.
[58] Council of Europe Committee of Ministers, Recommendation No. R (99) 18 of the Committee of Ministers to member States on the avoidance and reduction of statelessness (1999).

[59] UNHCR, Background Note on Discrimination in Nationality Laws and Statelessness (2021); UN Human Rights Council, The right to a nationality: equality in nationality rights in law and in practice, Resolution A/HRC/RES/53/16 (2023); UN General Assembly, Report of the UN Special Rapporteur on Violence against women and girls, nationality laws and statelessness, A/78/256 (2023).
[60] Court of Justice of the European Union, JY, case C-118/20, 18 January 2022.
[61] The Index countries without a dedicated statelessness status are: Austria, Belgium, Bosnia and Herzegovina, Croatia, Cyprus, Czechia, Germany, Greece, Ireland, Malta, Montenegro, The Netherlands, North Macedonia, Norway, Poland, Portugal, Romania, Serbia, Slovenia and Sweden.
[62] Only Poland and Cyprus have not acceded to the 1954 Convention.
[63] See UNHCR, Global Compact on Refugees Digital Platform, Pledges & Contributions: https://globalcompactrefugees.org/channel/pledges-contributions.
[64] Argentina, Brazil, Chile, Colombia, Costa Rica, Côte d'Ivoire, Ecuador, Kazakhstan, Mexico, Panama, Paraguay, Philippines, Senegal, Turmenistan, and Uruguay.
[65] See Ana Raquel Menezes, 'Breaking the Mold: Brazil's Progressive Approach to Granting Nationality and Reducing Statelessness' (29 June 2023); UNHCR, Submission by the United Nations High Commissioner for Refugees For the Office of the High Commissioner for Human Rights' Compilation Report Universal Periodic Review: 4th Cycle, 41st Session, Brazil (2022); UNHCR, 'Good Practices Papers – Action 6'; Government of Brazil, 'Obtain recognition of statelessness status' (SisApatridia); Hungarian Helsinki Committee, Estudio estatutos de protección internacional en América Latina *(Study of international protection statutes in Latin America)* (2022).
[66] Maria Julia Cerdas, 'Born at the age of 70' (5 March 2020); UNHCR, 'Good Practices Papers – Action 6'; Government of Brazil, 'Obtain recognition of statelessness status' (SisApatridia); Hungarian Helsinki Committee, 'Estudio estatutos de protección internacional en América Latina'; Supreme Electoral Tribunal, Naturalización para personas declaradas en condición de apátrida o refugiado apátrida (*Naturalisation for persons declared stateless or stateless refugee*).
[67] UN 'Global Compact on Refugees'(2018), p 32.
[68] For more information on statelessness and the refugee context in Europe, see: www.statelessjourneys.org.
[69] ENS and Institute on Statelessness & Inclusion, Addressing statelessness in Europe's refugee response: gaps and opportunities (2019).
[70] ENS, Implementing the statelessness provisions on the EU Pact on Migration and Asylum (2024).
[71] UNHCR, 'Handbook'.
[72] ENS, Protecting Stateless Persons from Arbitrary Detention: An Agenda for Change (2017).
[73] 1961 Convention; European Convention on Nationality, Articles 4 & 6; Convention on the Rights of the Child, Article 7.
[74] 1954 Convention, Article 32; UNHCR, 'Good Practices Papers – Action 6'; Council of Europe Committee of Ministers, Recommendation No. R (99) 18 of the Committee of Ministers to member States on the avoidance and reduction of statelessness (1999).
[75] UNHCR, 'Handbook'.
[76] UNHCR, 'Handbook', paras. 79-80.
[77] UNHCR, 'Good Practices Papers – Action 6'.
[78] UNHCR Executive Committee, Conclusion on Identification, Prevention and Reduction of Statelessness and Protection of Stateless Persons No. 106 (LVII) (2006).
[79] UNHCR, 'Good Practices Papers – Action 6', p. 9.
[80] UNHCR, 'Handbook', para. 165.
[81] UNHCR, Good Practice Papers - Action 1: Resolving Existing Major Situations of Statelessness (2015).

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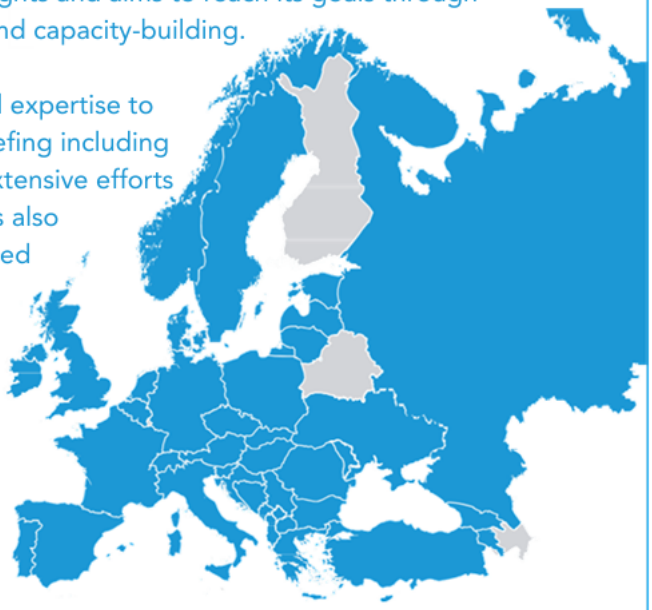

European Network on Statelessness

The Statelessness Index is a comparative tool that assesses European countries' law, policy and practice on the protection of stateless people and the prevention and reduction of statelessness against international norms and good practice.

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