



Ad-Hoc Query on the procedures and experience of Member States on granting the Status of Stateless Persons

Requested by BG EMN NCP on 14th August 2015

Compilation produced on 21st April 2016

Responses from Austria, Belgium, Croatia, Czech Republic, Estonia, France, Hungary, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom plus Norway (19 in Total)

Disclaimer: The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

1. Background Information

Republic of Bulgaria ratified the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness by Law promulgated in SG n.11 of 07.02.2012. In this regard we would like to receive information on the procedures and experience of Member States for granting the status of stateless persons.

In connection with the forthcoming activities for development of mechanism for the implementation of above mentioned conventions in Bulgaria, we would like to receive information on the following questions:

1. Which is the competent structure in your MS for granting the status of stateless persons?

Ad-Hoc Query: Existing rules on deprivation of liberty of third-country nationals suspected of staying irregularly in a Member State



***Disclaimer:** The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.*

2. What is the procedure for the determination of the status of stateless persons under the both conventions?

3. We would like to receive, if possible, a link to the respective Law where procedures are laid out.

Given the particular urgency of the requested information, we would very much appreciate your responses by **28th August 2015**.

2. Responses¹







		Wider Dissemination?²	
	Austria	Yes	<p>1. Currently various authorities, including the judiciary, residence and settlement authorities and aliens police in practice assess and determine if a person is stateless in the course of diverse procedures. In Austria no special residence title for stateless persons is provided for. Stateless persons fall in the Settlement and Residence Act under the definition of a “third county national” and therefore any residence title under the Settlement and Residence Act is open to stateless persons. In and after the asylum procedure, the same applies as for asylum seekers / recognized refugees / subsidiary protection holders.</p> <p>2. See 1 above. There is no dedicated procedure in place in Austria to identify stateless persons (statelessness determination procedure) resulting in the issuance of a residence permit or no mechanism to systematically identify stateless persons as part of another administrative procedure.</p> <p>3. n/a The Settlement and Residence Act mentioned under 1 above is available under https://www.ris.bka.gv.at/GeltendeFassung/Bundesnormen/20004242/NAG%2c%20Fassung%20vom%2018.08.2015.pdf (in German)</p>
	Belgium	Yes	<p>1. Court of First Instance in the residential location of the person concerned in Belgium (13 Courts of First Instance in total in Belgium)</p> <p>2. Belgian legislation does not currently provide a specific procedure or authority for recognising individuals as stateless persons.</p>

¹ If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.

² A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."





Ad-Hoc Query: Existing rules on deprivation of liberty of third-country nationals suspected of staying irregularly in a Member State

Disclaimer: The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>Persons who would like formal recognition as stateless individuals can submit a so-called 'request regarding the state of a person' to a Court of first instance in his residential location in Belgium.</p> <p>Applicants have access to this procedure irrespective of their migratory status in the country. Unlike asylum-seekers, however, they are not given a temporary legal residency status for the duration of the procedure.</p> <p>The burden of proof lies with the applicant (the applicant must provide his own evidence that confirms his statelessness) i.e. he/she must present documents from the embassy or another diplomatic post of the countries with which he/she has ties, showing he/she does not have the nationality of this country. Or submit the legislation of those countries on nationality. Countries with which he/she has ties can be the country where he/she was born, where he/she has stayed (country of residence), of which his/her spouse is a national, etc. Based on these documents, it must be proved that the applicant has never had a nationality or that he/she has lost his/her nationality and has no possibility of getting it back.</p> <p>If the request for recognition as a stateless person is refused, the person concerned can lodge an appeal to the Court of Appeal.</p> <p>3. /</p> <p>FOR MORE INFORMATION please see the Ad-Hoc Query on recognition of stateless persons, requested by LU EMN NCP on 26th February 2015 - Compilation of 4th May 2015 (attached in the mail).</p>
	Bulgaria	Yes	
	Croatia	Yes	<p>1. The competent authority is the Ministry of the Interior.</p> <p>2. Regarding the procedure in place to identify stateless persons, the Ministry of the interior of the Republic of Croatia does not have a specific statelessness determination procedure. In case of any issues with such determination, the provisions contained in the Aliens Act apply.</p> <p>3. http://www.mup.hr/120027.aspx; the Aliens Act</p>
	Cyprus	Yes	
	Czech Republic	Yes	<ol style="list-style-type: none"> 1. The authority in charge is Department for Asylum and Migration Policy of the Ministry of the Interior - the same authority as the authority responsible for procedure related to international protection. 2. The Czech Republic has not yet dedicated a statelessness determination procedure in place. However, the person can ask for status of stateless person and then the authority in charge can decide in line with the general administrative procedure according to Administrative Act (Administrative Act No. 500/2004 Coll. amended) or ask for international protection. The stateless person has the same rights and obligations as a foreigner because the definition of foreigner in Aliens Act (Aliens Act No. 326/1999 Coll. amended) also covers the stateless persons. 3. N/A
	Denmark	Yes	
	Estonia	Yes	Estonia has not yet ratified the 1954 Convention relating to the Status of Stateless Persons nor the 1961 Convention on the Reduction of Statelessness. For that reason there is no competent structure assigned for granting the status of stateless persons and there is no procedure for the determination of the status of stateless persons under the abovementioned conventions.


Ad-Hoc Query: Existing rules on deprivation of liberty of third-country nationals suspected of staying irregularly in a Member State

***Disclaimer:** The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.*

	Finland	Yes	
	France	Yes	<ol style="list-style-type: none"> 1. The competent structure for granting the status of stateless persons is the French Office for the Protection of Refugees and Stateless Persons (OFPRA). 2. France ratified both 1954 and 1961 conventions. Under these conventions, the procedure for the determination of the status of stateless persons is as follows: The Code for Entry and Residence of Foreign Persons and the Right of Asylum (CESEDA) which governs the law applicable to foreign nationals in France does not provide any specific procedure for stateless persons. The applicant has to send his/her application directly to the French Office for the Protection of Refugees and Stateless Persons (OFPRA) which is also competent for asylum applications. The applicant has to file personally a written request and ask for an ad hoc application form to apply for stateless status. Any TCN residing in France can file such an application. He/she needs to write to the OFPRA a letter in French mentioning his/her name, surname, address and reasons for being stateless. Then, an ad hoc form will be returned to his/her attention that needs to be filled and returned to the OFPRA by registered letter. Upon receipt, the application is registered and a registration certificate is sent to the applicant. The stateless status cannot be presumed, it needs to be proved with precise and serious evidence. During the examination, the OFPRA collects all the elements, in particular through an interview, to determine the countries to which the foreign national may be "attached". Then, it is examined to what extent the applicant is entitled to the nationality of each of these States. The OFPRA has the right to question the competent foreign authorities on the legal relation between the foreign national and their State. If the application is the subject of a decision of admission to the status of stateless person, the person is placed under the legal and administrative protection of the OFPRA. His/her personal status (marriage, divorce ...) and his/her administrative status (residence, freedom of movement) are then governed by the French law. The statutory stateless person is granted a temporary residence permit entitled "private and family life" allowing him/her to work. When he/she justifies three years of legal residence in France, the statutory stateless person may be granted a residence permit valid for ten years (article L 314-11 9 ° of the CESEDA). 3. As mentioned above, there is no French law where procedures are laid out for stateless persons. For more information, you may consult the OFPRA's website: https://www.ofpra.gouv.fr/fr/apatridie/procedure (in French). <p>As mentioned above, the administrative status (residence, freedom of movement) of the stateless person is governed by the Code for Entry and Residence of Foreign Persons and the Right of Asylum (article L 314-11 9 ° of the CESEDA) which governs the law applicable to foreign nationals in France: http://www.legifrance.gouv.fr/affichCode.do?idSectionTA=LEGISCTA000006180202&cidTexte=LEGITEXT000006070158&dateTexte=20150827 (in French).</p>
	Germany	Yes	
	Greece	Yes	

Ad-Hoc Query: Existing rules on deprivation of liberty of third-country nationals suspected of staying irregularly in a Member State



Disclaimer: The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

	Hungary	Yes	<p>1. In Hungary the authority in charge of the determination of the statelessness is the Office of Immigration and Nationality - (<i>Bevándorlási és Állampolgársági Hivatal</i>), OIN³.</p> <p>2. As an outstanding example, as of 1 July 2007, Hungary established a completely new statelessness determination procedure and it is now one of the few countries in the European Union (EU) having such a self-standing, comprehensive procedure established by law; with guarantees comparable to the refugee status determination procedure, fulfilling the specific needs of this group. Less than ten States all over the world have procedures in place to identify stateless persons in their territory, which is the first step to protection.</p> <p>The stateless status determination procedure can only be initiated via application by the person concerned; the law does not enable the authority to start the procedure ex officio. <u>The statelessness determination procedure starts upon request by the person concerned.</u> Claims should be submitted to the regional directorate of the Office of Immigration and Nationality (OIN) competent according to the applicant's place of accommodation, stay or residence. The OIN has currently seven regional directorates. According to a rule generally applicable in administrative procedures, if the application is submitted to an administrative authority not competent over the given matter, it shall transfer the claim (and the entire file) to the competent and responsible authority without delay and within maximum eight days after the lack of competence has been established. This provision may prove to be an important safeguard, as it can easily happen that a person submits a claim for protection on the ground of her/his statelessness to the police or the asylum authority, which are therefore obliged to immediately forward the application to the competent branch of the OIN.</p> <p><u>A claim for stateless status may be lodged in the form of a written application as well as by a verbal statement.</u> In the latter case, the authority has to prepare a written record of the statement. Written applications shall be signed by the applicant. If the applicant is illiterate this fact shall be noted in the written record of the oral statement. There are no further formal requirements whatsoever concerning the form of the application and there is no specific guidance on how to "recognize" claims for stateless status. This rule is identical to that in force with regard to asylum applications in Hungary and is considered an important procedural guarantee.</p> <p><u>The submission of a claim for stateless status is free of charge.</u></p> <p><u>During the procedure the applicant is entitled to use his/her mother tongue both in verbal or written form, or any other language that he/she understands (the costs of interpretation will not be charged to her/him). The authority has the duty to ensure the applicant's access to legal assistance.</u> Applicants for stateless status are entitled to state-funded legal aid, without the examination of their financial situation (based on the simple declaration of the person concerned that she/he is in need of this form of support). The applicant's authorized representative is entitled to be present at the interviews and shall be informed about the time of the interview five days in advance.</p> <p>UNHCR is granted special rights in the procedure and the alien policing authority shall take the UNHCR's opinion into consideration. Section 81 of the Act II of 2007 stipulates that the representative of <u>the United Nations High Commissioner for Refugees may take part in any stage of the statelessness determination procedure (with the consent of the applicant).</u> Accordingly, the representative may be present at the applicant's interview, may give administrative assistance to the applicant, may gain access to the documents/files of the procedure and may make copies thereof, shall be provided with the administrative decision and the court's judgement by the alien policing authority. The proceeding authorities can accept the foreign-language documents submitted by the applicant in support of her/his claim without a certified translation and an apostil. In case of unaccompanied minor applicants, an ex officio appointed case guardian represents the child</p>
---	---------	-----	---

³ <http://www.bmbah.hu/index.php?lang=en>

Ad-Hoc Query: Existing rules on deprivation of liberty of third-country nationals suspected of staying irregularly in a Member State

Disclaimer: The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.


			<p><u>in the procedure.</u></p> <p>If the claim was submitted orally and the applicant does not speak Hungarian, the regional directorate of the OIN will provide an interpreter who speaks the mother tongue of the applicant or any other language that he/she understands. If the case-officer responsible for the case speaks the mother tongue of the applicant or any other language that he/she understands, the applicant can waive of using an interpreter – this waiver has to be given in written form.</p> <p><u>If the applicant does not possess any permit allowing legal residence in Hungary the regional directorate issues a temporary residence permit for the applicant at the time of the submission of the application. This temporary residence permit is issued for a period of 6 months, which can be extended with additional 6 months at a time.</u></p> <p><u>In the Hungarian statelessness determination procedure, the burden of proof lies principally on the applicant.</u></p> <p>The alien policing authority provides administrative assistance in the establishment of facts through the Hungarian diplomatic representations. The applicant may ask for administrative assistance from the regional directorate of the OIN or the UNHCR as well. The regional directorate of the OIN may also contact the Hungarian or other counties’ diplomatic representations for additional information. In addition, similarly to all administrative authorities and procedures, the OIN has in the statelessness determination process the obligation to establish all the relevant facts of the case. Considering all these rules, it can be summarized that in the Hungarian statelessness determination procedure the burden of proof principally lies on the applicant, but in practice the alien policing authority shall also actively contribute to the establishment of facts.</p> <p>Proving statelessness may be a particularly difficult or even impossible endeavour, considering that it means showing that a person is not a citizen of any of the approximately 200 states in the world. Therefore, the <u>guidance provided by Section 79 (1) of the Act II of 2007</u> constitutes: In the statelessness determination procedure, the applicant shall prove or substantiate her/his statelessness in particular with regard to a) the country where she/he was born; b) the country of her/his former place of stay or residence; c) the country of nationality of her/his family members and parents. In light of the practice it shall be concluded that this provision constitutes particularly useful guidance for decision-makers and it is generally applied in due manner. In all decisions examined the circle of the states of interest was determined according to the above rule and thus could be limited to a number of maximum two or three countries. According to the Government Decree the competent regional directorate of the OIN shall establish whether the applicant is not recognized as a citizen by any state under its national law on the basis of the following: national laws and databases of the states referred to in of Section 79 (1) of the Act II 2007, the opinion of the UNHCR, the information received from Hungarian foreign representations and from foreign authorities, the evidence supplied by the applicant.</p> <p>3. The statelessness determination procedure was introduced on the 1st July in 2007 with the <u>Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals</u>⁴ and the <u>Government Decree 114/2007 (V. 24.) on the Implementation of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals</u>⁵.</p>
	Ireland	Yes	
	Italy	Yes	1–2; Italy ratified the <i>Convention Relating to the Status of Stateless Persons</i> in 1962. A bill (DDL No 2802, submitted on 30 December

⁴ http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV#lbj249param

⁵ http://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700114.KOR



Ad-Hoc Query: Existing rules on deprivation of liberty of third-country nationals suspected of staying irregularly in a Member State

Disclaimer: The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>2014) is currently under discussion for the adherence of Italy to the <i>Convention on the Reduction of Statelessness</i>. Stateless status can be recognized in Italy through either an administrative or a judicial procedure. The Ministry of the Interior (<i>Department for Civil Liberties and Immigration</i>) has responsibility for <u>the administrative procedure</u>, which is regulated by Article 17 of the Decree of the President of the Republic No 572/93 “<i>Regulation implementing Law 91/92</i>” of 12 October 1993. This procedure can be initiated by a person who is already lawfully resident in Italy. For the purposes of stateless status recognition, the Ministry of the Interior requires any application to include the applicant's birth certificate, the documentation referring to his/her residence in Italy, a certified copy of his/her residence document and any document that can prove stateless status (Article 17). The application should be submitted to the Ministry of the Interior through the local Prefecture or by registered post. The administrative procedure for statelessness recognition should be completed within 350 days, or within 895 days if the opinion of the Ministry of Foreign Affairs and of the diplomatic mission or consular post of the foreign country is needed (Decree of the Ministry of the Interior, 18 April 2000, No 142, Appendix A). By contrast, the <u>judicial procedure</u> is not regulated by any specific provision of the Italian legal system. In 2011 the Court of Cassation (Sentence of 4 April 2011, No 7614, confirmed by Sentence of 23 January 2012, No 903) established that in the absence of relevant legislative provisions, the proceedings for statelessness status recognition should take the form of ordinary court proceedings with the Ministry of the Interior as a counter-party. A judicial procedure may also be initiated even if the applicant does not hold a residence title. In addition, in the case of judicial proceedings, the burden of proof lies with the applicant, who should provide the necessary documents to back his/her claim.</p> <p>3. Article 17, Decree of the President of the Republic No 572/93, “<i>Regulation implementing Law e 91/92</i>” of 12 October 1993, in the Official Gazette No 2 of 4-1-1994; www.gazzettaufficiale.it Appendix A, Ministerial Decree 18 April 2000, No 142, Regulation amending the Regulation implementing Articles 2 and 4 of Law 7 August 1990, No 241, adopted by Ministerial Decree 2 February 1993, No 284, as amended by the Ministerial Decree 19 October 1996, No 702, in Official Gazette, General Series No 129 of 15-6-2000 Suppl. Ordinario n. 86; www.gazzettaufficiale.it</p>
	<p>Latvia</p>	<p align="center">Yes</p>	<p>1. Which is the competent structure in your MS for granting the status of stateless persons?</p> <p>The Office of Citizenship and Migration Affairs (the OCMA).</p> <p>2. What is the procedure for the determination of the status of stateless persons under the both conventions?</p> <p>According to the Law on Stateless Persons a person may be recognized as a stateless person in the Republic of Latvia if some other state has not recognized the person as a citizen thereof in accordance with the laws of such state. The above definition is no different from the definition in the Convention. A person without nationality and who resides in Latvia may apply for stateless person’s status in accordance with the Law on Stateless Persons. To recognize a person as a stateless person, he/she shall submit documents to the OCMA, which is competent body to grant stateless persons status. The documents are:</p> <p>1) a written application (which includes personal information – name, date and place of birth, address, previous places of residence,</p>







Ad-Hoc Query: Existing rules on deprivation of liberty of third-country nationals suspected of staying irregularly in a Member State

Disclaimer: The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>marital status, information about relatives, information about former personal identification documents);</p> <p>2) a personal identification document;</p> <p>3) a document issued by a foreign competent authority that the person is not a citizen of the relevant state and he/she is not guaranteed the citizenship thereof, or documentary evidence that it is not possible to obtain such a document (The foreign competent authority is of that country which he/she has appropriate connection with (for example, place of birth, his/her previous place(s) of residence, his/her parent's nationality);</p> <p>4) according to Population Register Law a person should submit a birth certificate and document about marital status.</p> <p>The person is entitled to deliver additional documents proving evidences stated in application.</p> <p>The OCMA while examining the application is entitled to request additional information from applicant.</p> <p>Decision on granting the status of a stateless person or refusal of granting the status of a stateless person is made within three months of submitting the application. If required, the term may be prolonged.</p> <p>A stateless person shall reside in the Republic of Latvia in accordance with the procedures prescribed by the Immigration Law. Immigration Law provides the possibility to grant a temporary residence permit for a period of time not exceeding five years, if the status of a stateless person has been granted. This condition shall not apply to a foreigner to whom prior to the granting of the status of a stateless person in the Republic of Latvia a residence permit has been issued in accordance with another purpose of entry.</p> <p>3. We would like to receive, if possible, a link to the respective Law where procedures are laid out. http://likumi.lv/doc.php?id=84393 Law On Stateless Persons in English is attached below</p>
	<p>Lithuania</p>	<p align="center">Yes</p>	<p>1. In Lithuania stateless persons can receive either a temporary or permanent residence permit if they meet the conditions stated in the Law on the legal status of aliens. The competent authority to issue a permit is the Migration department under the Ministry of the Interior.</p> <p>2. The procedures are laid down in the Law.</p> <p>3. Law on the legal Status of Aliens is attached.</p>
	<p>Luxembourg</p>	<p align="center">Yes</p>	<p>1. In Luxembourg the competent authority for granting statelessness status is the Foreigners Department of the Directorate of Immigration of the Ministry of Foreign and European Affairs, which is the only competent body to grant this status.</p> <p>2. A foreigner without nationality and who resides normally in Luxembourg may apply for statelessness status in accordance with the 1954 Convention. His/her request shall be submitted to the Foreigners Department of the Directorate of Immigration of the Ministry of Foreign and European Affairs, which is the only competent body to grant this status.</p> <p>The procedure in relation to statelessness does not apply to irregular staying third-country nationals in Luxembourg and who to those have no link whatsoever with the country. Also the filing of the application cannot disrupt the mechanisms of Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person.</p> <p>The status of stateless person is not presumed. The status must be justified in all its determining elements with specific and serious evidence. Therefore, the foreigner must submit a written and reasoned application, which includes his/her personal contact information (name(s), first name(s), date of birth, place of birth, address), his/her previous place(s) of residence, as well as a clear and detailed</p>



Ad-Hoc Query: Existing rules on deprivation of liberty of third-country nationals suspected of staying irregularly in a Member State

Disclaimer: The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>explanation on the reasons that have led him/her to not having a nationality. The applicant shall attach all the supporting evidence to the application.</p> <p>The Foreigners Department of the Directorate of Immigration examines the application based on the evidence provided. It also collects all the relevant elements which allow to determine the different countries where the applicant could have obtained their nationality and can obtain information from different competent authorities (if it is necessary and after having obtained express consent from the applicant). If needed, the foreigner will be invited to an interview or to present additional evidence or supplementary information.</p> <p>3. There is no specific law that established the procedures.</p>
	Malta	Yes	
	Netherlands	Yes	<ol style="list-style-type: none"> 1. The Netherlands has signed the Convention of 28 September 1954 relating to the status of stateless persons, but has not legislated regarding statelessness at the national level. 2. The Netherlands does not have a mechanism in place to systematically identify stateless persons. At this point the Netherlands is considering adopting a dedicated mechanism to determine statelessness. 3. n/a
	Poland	Yes	Poland has not ratified the 1954 Convention relating to the Status of Stateless Persons nor the 1961 Convention on the Reduction of Statelessness and has not procedures for the determination of the status of stateless persons.
	Portugal	Yes	
	Romania	Yes	
	Slovak Republic	Yes	<ol style="list-style-type: none"> 1. Ministry of Interior of the Slovak Republic (Bureau of the Border and Aliens Police of the Police Force Presidium) 2. The status of stateless persons is not granted in the Slovak Republic. It is assessed by the Bureau of the Border and Aliens Police of the Police Force Presidium individually in each procedure (procedure on granting permanent residence without fulfilling the conditions as specified in the § 46 Art. 2 (b) of the Act No. 404/2011 Coll. on Stay of Aliens and on Changes and Amendments of Some Acts, As Amended with regard to § 46 Art. 3 of the Act or procedure on Administrative Expulsion with regard to Obstacles to Administrative Expulsion as stated in § 81 of the Act) according to the law and in line with the Convention relating to the Status of Stateless Persons. <p>According to the § 46 Art. 3 of the Act No. 404/2011 Coll. on Stay of Aliens and on Changes and Amendments of Some Acts, As Amended: A person without any citizenship is the person which is not considered as a citizen of any state according to their laws. In order to demonstrate this fact, it is sufficient, if s/he demonstrates that s/he does not have any citizenship in the state</p> <ol style="list-style-type: none"> a) in which s/he was born; b) in which s/he has had previous residence or stay; and c) which citizenship have his/her parents and other family members. <p>http://www.zakonypreludi.sk/zz/2011-404</p>



Ad-Hoc Query: Existing rules on deprivation of liberty of third-country nationals suspected of staying irregularly in a Member State

Disclaimer: The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

	<p>Slovenia</p>	<p align="center">Yes</p>	<p>1. Ministry of the Interior 2. We do have a national mechanism to identify stateless persons* as part of another administrative procedures such as citizenship, residence permit and international protection application procedures. A general provision regarding issuing Slovenian citizenship requires from (stateless) person firstly to granting a legal status (residence permit, beneficiaries of international protection, etc.) and living at least 5 years in Slovenia before applying/granting a citizenship. Legislation foreseen also exceptions. 3. Procedures are lay down in several legislations such as Citizenship Act, Aliens Act and International Protection Acts. Please see: www.mnz.gov.si * SI ratified only the 1954 Convention relating the Status of Stateless Persons but not the 1961 Convention on the Reduction of Statelessness.</p>
	<p>Spain</p>	<p align="center">Yes</p>	<p>1. The Office for Asylum and Refugees is the competent structure for hearing the applications. It shall elevate a proposal of decision to the Minister of Home Affairs, who has the competence to make the final decision.</p> <p>2. The procedure may be initiated by initiative of the competent authorities (in cases where the Office for Asylum and Refugees takes notice of facts or information that evidence that a person might be stateless) or by an application of the person who considers him or herself stateless. In this case, the application shall be submitted to the Office for Asylum and Refugees within the month since the applicant entered national territory.</p> <p>The Office for Asylum and Refugees is competent for instructing the procedure. It may demand and gather as many reports as necessary from national or international bodies. It can also require the presence of the applicant so that he or she can make or detail already made allegations. During the instruction, the applicant must collaborate in verifying the facts he or she has alleged in his or her application. The applicants, on their turn, can submit any document and information that they consider pertinent in support of their application.</p> <p>Once the instruction is over, the Office for Asylum and Refugees must bring before the applicant the file with every document and information that will be used to make the final decision. The applicant may present further information or make other allegations to complete the file.</p> <p>After having brought the file before the applicant, and having received the further documents or allegations made by the applicant, the Office for Asylum and Refugees shall make a draft decision. This draft decision shall be individualised and sufficiently grounded.</p> <p>In a period no longer than three months since the initiation of the procedure, and based on the draft decision, the Ministry of Home Affairs shall make the final decision.</p> <p>3. The Spanish legislation refers to the stateless condition in art. 13.4 of the Constitution, in art. 34 of the Aliens Law and in the regulation passed by the Royal Decree 865/2001, 21st of July, which contains the Regulation for the recognition of the statute of statelessness.</p> <p>Spanish Constitution: http://www.boe.es/buscar/act.php?id=BOE-A-1978-31229</p> <p>Aliens Law: http://www.boe.es/buscar/act.php?id=BOE-A-2000-544</p>


Ad-Hoc Query: Existing rules on deprivation of liberty of third-country nationals suspected of staying irregularly in a Member State

Disclaimer: The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			Royal Decree 865/2001: https://www.boe.es/diario_boe/txt.php?id=BOE-A-2001-14166
	Sweden	Yes	<p>1. Sweden has not a specific structure to identify stateless persons.</p> <p>2. The procedure is included in the case procedure which take place when an application for residence permit is lodged. If asylum is granted or residence permit on humanitarian grounds there will be a permanent residence permit issued for the stateless person. If status as refugee – 51 year Geneva Convention travel document is most common. Otherwise it is a Swedish Aliens passport. When it comes to the national registration which takes place at the tax authorities, they have the possibility to make further investigation about the statelessness. Finally, Sweden does not have a specific process for applying for recognition or statelessness.</p> <p>3. The Swedish Aliens Law: Chapter 4.section 1; section 2; section 2a; and section 4.</p>
	United Kingdom	Yes	<p>1. Which is the competent structure in your MS for granting the status of stateless persons?</p> <p>The Home Office (Ministry responsible for immigration) is the authority in charge of granting the status of stateless persons.</p> <p>2. What is the procedure for the determination of the status of stateless persons under the both conventions?</p> <p>The UK has a statelessness determination procedure by which a person may be recognised as stateless. A person may also be recognised as stateless during the asylum procedure.</p> <p>‘Any asylum claim accepted for substantive consideration takes priority over a stateless application, whether lodged before the application for stateless leave or disclosed in the course of consideration of the application. No consideration will take place until the individual’s asylum claim has been finally determined or withdrawn. If an asylum claim succeeds or if other forms of leave are granted, an individual will not concurrently be eligible for leave to remain as a stateless person. A person can apply for leave on the basis of statelessness if their asylum claim is refused. Individuals who have not claimed asylum can also make a stateless leave application ’.</p> <p>Stateless determination procedure:</p> <p>Under paragraph 405 of the Immigration Rules, an applicant who meets the requirements of paragraph 403 may be granted limited leave to remain for a period not exceeding 30 months (2.5 years).</p> <p>Rule 403 states that the requirements for leave to remain in the United Kingdom as a stateless person are that the applicant:</p> <ul style="list-style-type: none"> (a) has made a valid application to the Secretary of State for limited leave to remain as a stateless person; (b) is recognised as a stateless person by the Secretary of State in accordance with paragraph 401; (c) is not admissible to their country of former habitual residence or any other country; and (d) has obtained and submitted all reasonably available evidence to enable the Secretary of State to determine whether they are stateless.

Ad-Hoc Query: Existing rules on deprivation of liberty of third-country nationals suspected of staying irregularly in a Member State

Disclaimer: The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>To determine if an applicant for stateless leave is stateless, a caseworker will assess the case on the available information, conduct research as necessary and make written enquiries to seek further evidence or information. A personal interview will not be required if there is sufficient evidence of statelessness, including previous findings of fact established during the asylum claim (for example) and the individual is eligible for leave to remain on this basis.</p> <p>In all other cases, a personal interview will be arranged to enable the applicant to set out fully his or her case for being considered stateless and to submit any other available evidence. Although this should not normally have the same potential for sensitivity, interviews will be arranged, conducted and recorded in a similar way to asylum interviews, set out in the published guidance on interviews.</p> <p>The burden of proof rests with applicants, who are expected to do all they reasonably can to demonstrate their statelessness. A clear lack of cooperation or evidence of bad faith may lead to refusal of an application. Caseworkers must however be ready to undertake research or make enquiries of other national authorities where the applicant has been unable to obtain relevant information.</p> <p>3. We would like to receive, if possible, a link to the respective Law where procedures are laid out.</p> <p>https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/258252/stateless-guide.pdf</p>
	<p>Norway</p>	<p align="center">Yes</p>	<p>1. Which is the competent structure in your MS for granting the status of stateless persons?</p> <p>Norway has ratified both the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. For the time being, we have, however, no structure designated to the task of granting status as stateless as such.</p> <p>2. What is the procedure for the determination of the status of stateless persons under the both conventions?</p> <p>At present, Norway has no particular procedure for the determination of status as stateless under the two Conventions. An individual's claim to be stateless is considered under the examination on merits of an asylum application/claim or immigration applications (family reunification applications) according to documentation requirements, procedures and criteria laid out in the Norwegian Immigration Act. The same applies when assessing applications for Norwegian Citizenship.</p> <p>A stateless person who is granted refugee status, humanitarian protection or any other permit of stay in Norway has the same rights and obligations as any other individual that was granted the same type of residence permit and having a specific citizenship. While a stateless person may obtain Norwegian citizenship after only three years of legal residence in Norway, cf. to Section 16 in the Norwegian Nationality Act⁶, other categories of persons who have a nationality will only be qualified to obtain Norwegian citizenship after five or seven years of residence in Norway.</p>

⁶ Section 16. Stateless persons

Ad-Hoc Query: Existing rules on deprivation of liberty of third-country nationals suspected of staying irregularly in a Member State

Disclaimer: The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

			<p>We would like to point out that UNHCR recently conducted a study entitled “Mapping of Statelessness in Norway”, with a view to explore Norway’s compliance with its international obligations pertaining to statelessness. We are looking forward to the finalization of UNHCR’s report and will duly consider any recommendations for amendment in that respect.</p> <p>3. We would like to receive, if possible, a link to the respective Law where procedures are laid out. See answer above.</p>
--	--	--	---

For applicants who are stateless, the conditions set out in section 7, first paragraph (b), (c) and (h) shall not apply. A person who by his or her own act or omission has chosen to be stateless, or who in a simple way can become a national of another country, is not deemed to be stateless. However, a stateless applicant who has reached the age of 18 must have resided in the realm for the last three years with work or residence permits of at least one year’s duration. Residence during one or more application-processing periods shall be included when calculating the three-year period.