Please cite as: EUAA, '4.13.2 Changing legislation and policies' in *EASO Asylum Report 2021*, Enero 2022.

4.13.2 Changing legislation and policies



A number of EU+ countries took steps toward addressing statelessness in 2020, including acceding to relevant international legal instruments, establishing dedicated statelessness determination procedures, providing access to citizenship at birth, facilitating access to naturalisation, speeding up the statelessness determination process and updating guidance on processing applications by stateless persons.[lvii]

In January 2021, Iceland acceded to the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. The accession followed a number of steps Iceland had taken in the past years to align national legislation with the two conventions to prevent, identify and reduce statelessness and protect stateless persons.[957]

In Bulgaria, which is a state party to the 1954 Convention relating to the Status of Stateless Persons but had retained a number of reservations to some of its provisions, a new law was adopted in 2020 to withdraw the reservation previously made to Article 31 of the Convention (expulsion).[958] Given the clearly-defined procedure for granting stateless status in the Bulgarian legislation, the reservation was deemed obsolete. In February 2021, a new legislative act amending and supplementing the Law on Foreigners in the Republic of Bulgaria was adopted by the National Assembly, introducing new grounds for refusing to grant stateless status.[959] This change was received with concern as it seems to reduce access to protection for possible stateless persons.[960] More specifically, the stateless status may be refused in cases when the person:

- holds a valid identity document or has held an identity document that could have been renewed but has not been renewed;
- is subject to coercive administrative measures under the Law on Foreigners in the Republic of Bulgaria (for example, return or entry ban); or
- meets one of the grounds under the Law on Foreigners in the Republic of Bulgaria, Article 10.

In January 2020, the Citizenship Act was amended in Estonia. According to the amendment, a minor can apply for Estonian citizenship in a simplified manner if the minor was born in Estonia and has permanent residence in Estonia, and a parent or grandparent with undetermined citizenship lived in Estonia before 20 August 1991 and the other parent is a national of another country. Moreover, if a minor is a citizen of another country, they can acquire Estonian citizenship after they present a certificate showing that they have been released from the citizenship of that other country. The decision of the Estonian government to grant citizenship takes effect on the day following the presentation of the certificate to an authorised governmental agency.[961]

Similarly, as of January 2020, Latvian citizenship is automatically granted to non-citizens' children born after
1 January 2020 in the country, unless the parents have agreed to grant citizenship of another country to the child.
In 2020, 142 children of non-citizens were registered as citizens.[lviii]

Following a recommendation by the Dutch Advisory Committee for Migration Affairs,[962] in December 2020, a bill was submitted to the Dutch Parliament foreseeing the establishment of a statelessness determination procedure *(Wet vaststellingsprocedure staatloosheid)*.[963] Every person who has a regular place of residence in the Netherlands and has an interest in starting the procedure would be able to request it. The drafting of the bill took place through a consultation process involving several organisations, including the Council of State, think tanks and civil society organisations.[964] In February 2021, the bill was declared controversial and the process has come to a standstill. In December 2020, the Dutch IND published new work instructions for the assessment of applications by Palestinians.[965]

In Czechia, a new legislative proposal was forwarded to the parliament for the establishment of a statelessness determination procedure. Since January 2019, one of the changes includes a procedure introduced into practice to determine statelessness and issue a certificate to this end. UNHCR and the European Network on Statelessness (ENS) observed that this could not be considered an equivalent to a statelessness determination procedure as no specific rights were granted as a consequence of the procedure.

Lithuania continued its efforts to reduce the number of stateless persons in the country. A new provision was added to Law No XI-1196 on Citizenship,[966] stipulating that a child of a stateless person lawfully residing in Lithuania is considered a citizen as if citizenship was acquired by birth, regardless of the actual place of birth. In addition, the Migration Department launched a campaign for a census of stateless persons, during which it created a list of known stateless persons and sent notifications to them, inviting them to contact the department if they would like to receive help in acquiring Lithuanian citizenship. A total of 2,158 notifications were sent and 139 individuals sought the counselling service. Subsequently, 57 of them applied for citizenship and 15 of them have already become citizens.

In September 2020, the Swedish government met with national agencies to discuss challenges related to the registration of statelessness, nationality and 'unknown' nationality. The purpose of this dialogue was to limit existing inconsistencies in the registration of stateless persons and it will meet annually. In parallel, a government inquiry on nationality, established in October 2019 and continued in 2020 and 2021, among other issues, looked into measures to limit statelessness in Sweden, including if certain children born stateless in Sweden could acquire nationality automatically at birth, instead of through or as a complement to the current simplified notification process. Moreover, the Swedish Migration Agency updated in 2020 its legal position on the assessment of cases of stateless persons who previously had their habitual residence in Qatar, Saudi Arabia or the United Arab Emirates,[967] but this was repealed in 2021 and was no longer valid.

In Spain, the Asylum Office worked toward reducing the stock of pending requests for statelessness determination. The backlog was reduced from 4,375 files in 2018 and 4,100 in 2019 to 1,379 files in 2020. The Spanish government also began to publish detailed disaggregated statistics on the statelessness determination procedure.[968]

The ECtHR was called in to rule on issues related to statelessness in EU+ countries. *Sudita Keita v Hungary* concerned difficulties faced by a stateless individual in regularising his legal situation in Hungary and in accessing health care and employment and his right to getting married. The ECtHR decided that Hungary was in violation of the ECHR, Article 8 between 2002 and 2017, when the applicant was ultimately granted a stateless status.

Similarly, in Czechia, the District Court of Prague 7 accepted a damage claim for an excessively lengthy procedure on stateless determination. The Ministry of the Interior was asked to pay for both immaterial damage and expenses linked to the person's previous detention. This was the first case where the ministry had to compensate someone for immaterial damage due to a lengthy administrative procedure (Decision No 12 C 2/2019).[969] UNHCR added that the procedure had not been functioning for several years. Moreover, the Municipal Court in Prague found that stateless persons should be allowed in accommodation centres for asylum seekers, and "the (Ministry) is hereby prohibited to continue the breach of applicants' right to housing in the accommodation centre, and the (Ministry) is also ordered to enable the applicants to use housing in the accommodation centre until the entry in force of their decision on application for a status of a stateless person" (Decision No 5A 168/2019 of 26 Oct 2020).[970] In another case, the District Court of Prague found that the detention of an applicant for statelessness status was an unlawful act. The court officially stated that applicants for statelessness status cannot be detained because they are lawfully staying on the territory (Decision No 14A8/2020).[971]

In the case of *X (Palestine) v Commissioner General for Refugees and Stateless Persons in Belgium*, CALL ruled that, when a stateless person has multiple habitual residences, the mere fact of not being afraid in one of his or her countries of habitual residence and being able to return there is not enough to consider that the applicant benefits from sufficient protection, within the sense of the Geneva Convention.

In Spain, the Supreme Court found that the initiation of the procedure to recognise statelessness status does not require the applicant to be in the national territory: it is sufficient for the applicant to be at a border point (Decision No 2660/2020 (Appeal No 3661/2019).[972], [973]

Finally, in December 2020, the UN Human Rights Committee found that the Netherlands violated a child's rights by registering 'nationality unknown' in his civil records, as this left him unable to be registered as stateless under Dutch law and therefore be given international protection as a stateless child.[974]

[lvi] For a review of the challenges associated with the identification, registration and recording of stateless persons among asylum applicants and the consequent impact on data, see European Network on Statelessness and Institute on Statelessness and Inclusion (n.d). *Stateless Journeys: Registration and screening*. Retrieved 2 April 20201 from: https://statelessjourneys.org/main-issues/registration-and-screening/

[lvii]The Statelessness Index provides detailed information on legislation, policy, and practices on the protection of stateless people in

European countries.

[iviii] UNHCR noted that "(i)n the specific context of Latvia, "non-citizens" enjoy the right to reside in Latvia *ex lege* and a set of rights and obligations generally beyond what is prescribed by the 1954 Convention relating to the Status of Stateless Persons, including protection from removal, and as such the "non-citizens" may currently be considered persons to whom the Convention does not apply in accordance with Article 1.2(ii)".

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