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4.13.3 Areas for improvement

While progress has been made in understanding and addressing questions of statelessness in Europe, it is an area where room for further improvement seems to exist. Over the past years, the UNHCR representation for the Nordic and Baltic countries has conducted, in cooperation with local affiliated organisations, statelessness mappings in the eight countries in northern Europe to gain a better understanding of the situation of stateless persons in each country. In November 2020, one such report was published for Denmark,[975] while another report commissioned by UNHCR and drafted by the NOAS provided an analysis of the legal practices on statelessness in Norway, following up on UNHCR's mapping from 2015.[976] In December 2020, UNHCR published a study on statelessness in Czechia; the research presented in the study was conducted in 2018 and, thus, may not reflect possible new developments since then.[977]

A number of actors have worked together to conduct systematic research on statelessness and support legal and policy development, awareness-raising and capacity building. The work is done under the umbrella of the ENS, an alliance of civil society organisations with presence in 41 countries.[lix] Building on research from previous years,[lx] the ENS continued in 2020 to report on existing issues. For example, the ENS was closely engaged in the development of the new EU Strategy on the Rights of the Child (2021-2024) and offered targeted recommendations to the European Commission, other EU institutions and EU Member States to effectively address childhood statelessness.[978]

The ENS consulted with representatives of stateless communities from around Europe and 150 partners from affiliated organisations in 41 countries on the impacts of the COVID-19 pandemic on stateless persons and actions that needed to be prioritised to assist them. Drawing from these consultations, the ENS issued recommendations to governments and regional organisations for immediate and longer-term policy responses to address the needs of stateless persons in public health crises.[979]

In April 2020, the ENS – together with Child Circle, the Platform for International Cooperation on Undocumented Migrants and the Initiative for Children in Migration – published a report on the effects of statelessness on migrant children in Europe.[980] The report identified existing challenges and protection gaps, including with registering births and ensuring that all children born during the travel to Europe can acquire a nationality. It addressed the lack of comprehensive legal safeguards to prevent children from being born stateless and growing up without a nationality. An important parameter is the lack of awareness about statelessness among refugees and migrants, as well as those assisting them and decisionmakers, creating a situation where the issue may not be

adequately addressed. The report provided recommendations on implementing safeguards to prevent childhood statelessness; addressing barriers to immediate free birth registration; building capacity and awareness among officials, civil society organisations, refugees and migrants; improving the identification and recording of statelessness; and introducing dedicated, child rights-based procedures for statelessness determination. The ENS also published an extensive literature review to map existing literature and evidence on the risk of statelessness among refugee children in Europe; identify actors with knowledge, information and power on the issue; and use the findings to inform the production of a framework and methodology for further research.

In January 2021, the ENS presented an analysis of the impact of the proposed new Pact on Migration and Asylum on the fundamental rights of stateless migrants and refugees. The analysis also offered recommendations on how these should be addressed as an integral part of negotiations on, and implementation of the pact.[981]

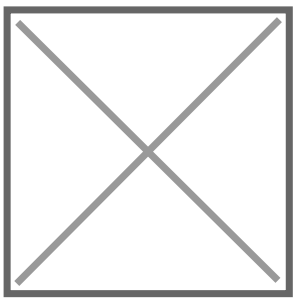
In summary, civil society organisations in 2020 defined the following areas of concern regarding statelessness in the context of asylum:

- There is still a significant lack of information and resources for all actors involved in the asylum procedure on statelessness and nationality problems. While positive steps have been taken to increase awareness, this has not led to robust national or regional strategies on how to prevent new cases of statelessness and how to protect stateless individuals. Thus, there are limited mechanisms to systematically identify and register statelessness at the initial stages of the asylum process. [982], [983]
- Barriers exist in registering and/or certifying the birth of a child in Europe, or in transit, which can lead to a risk of statelessness, as a birth certificate is key to establishing a child's nationality. [984]
- Many countries still lack a statelessness determination procedure established in law to which officials can refer individuals if they claim to be stateless, or even if it exists, there is no systematic referral to it or there is no clarity as to the procedural specifics.[985] This is important to ensure that if refused refugee or subsidiary protection, an individual's protection needs under the 1954 Convention Relating to the Status of Stateless Persons are addressed and their rights upheld. This determination is also important regardless of whether an individual is granted another form of international protection, as statelessness will impact on their access to other rights, their inclusion and citizenship rights, the rights of any children, and their ability to return upon cessation of protection.[986]
- Applicants for statelessness determination often do not enjoy the same rights as applicants for international protection. The lack of civil documentation often leaves stateless persons in a legal limbo, with no or limited access to social and economic rights, including housing, employment and health care.[987], [988]
- Regarding access to naturalisation processes, if stateless individuals have not been registered as such, even though they may possess a residence permit, they may not be able to access nationality through naturalisation, as they may need to produce a passport or birth certificate to complete the process.[989]

☒ There is an increased risk of arbitrary, immigration-related detention for stateless persons, especially in the context of return procedures. Specifically on return, recommendations have been made to link return proceedings to statelessness determination procedures to assess protection needs under the 1954 Convention on Statelessness.990, 991

☒ There is a lack of comprehensive information on statelessness and nationality rights in country of origin information, which has an impact on decision making practice concerning stateless persons.992, 993

A persisting issue is the lack of accurate data on stateless persons, as they are not always accounted for or included in national censuses.994, 995 To this end, the Aditus Foundation in Malta provided input to the open consultation on the Census of Population and Housing for 2021 highlighting the need to use the 2021 census as an opportunity to comprehensively map the stateless population in Malta. Aditus underlined that this may provide a new impetus to adopt policies that effectively seek to prevent statelessness and to protect stateless persons and offered a set of recommendations for the inclusion of statelessness in the upcoming census.996



[lix] The ENS' Statelessness Index offers comparative data on national legislation, policy and practice related to statelessness for 27 European countries.

[lx] In 2017, the ENS – in cooperation with the Open Society Foundation and the Institute on Statelessness and Inclusion – launched the "Stateless Journeys" initiative to examine the relationship between statelessness and forced migration in Europe. Research findings from this project were presented in the EASO Asylum Report 2020.

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