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icon presenting statelessness in the context of asylum

Statelessness is a legal anomaly which affects people who are not considered a national by any state. Lacking any state's protection means stateless persons may not be able to fully exercise their fundamental rights, including access to education, health care, housing, employment, social welfare and documentation.

The 1954 UN Convention relating to the Status of Stateless Persons defines a stateless person as someone "who is not considered as a national by any state under the operation of its law". 824 Nationality is the legal bond between a person and a state, and international law establishes the right of every person to a nationality. States are free to regulate nationality, but this must be within the limits of international law, for example by being non-discriminatory and non-arbitrary, avoiding statelessness and ensuring gender equality.

Nationality is generally acquired at birth by descent (jus sanguinis), place of birth (jus soli) or later in life based on residence, marriage or adoption. A person may be born stateless if the law in their country is discriminatory and does not grant nationality to certain ethnic groups or allow women to pass on nationality to their children. Children born into migrant communities may also be at risk of statelessness when the country they are born in does not grant nationality based on the principle of jus soli and they are unable to obtain the nationality of their parents. One reason for this may be that their parents are refugees who cannot approach the embassy of their country of origin to request nationality for their children out of fear of persecution. People may also lose their nationality later in life. This may be as a result of discriminatory laws or challenges acquiring a new nationality after state secession.

To eliminate statelessness in the EU, it is important that Member States have procedures in place to ensure that stateless persons are recognised and that a specific path exists for them to become citizens of the country in which they reside.

While stateless persons and refugees are two distinct categories in international law, a person can be both a refugee and stateless. In the context of asylum, statelessness may also be relevant to the determination process for an asylum application as in many instances the reasons why a person left their country are linked to reasons why they are stateless. It is therefore important that both claims are assessed and both statuses addressed explicitly. In

instances where international protection is not granted on one ground, statelessness may comprise another ground based on which the person may still necessitate international protection.

Statelessness remained a topic of importance on the EU agenda. This was particularly the case as statelessness-related considerations were relevant to the two major areas of conflict in 2023: Palestine and Ukraine. In its “Annual Report on the Situation of Fundamental Rights in the European Union – 2022 and 2023”, the European Parliament noted with concern the large number of stateless persons in the EU, especially children being born stateless. Highlighting the need for a Europe-wide strategy to address statelessness, the European Parliament called for the development of a comprehensive action plan to this end. The report also called on Member States to properly identify, recognise and protect stateless people, addressing the specific vulnerabilities of stateless persons. 825

In 2023, about 2,300 asylum applications were lodged in EU+ countries by stateless persons, which is in line with 2022. The main receiving countries were Austria, France, Germany, Sweden, Greece and Switzerland (in descending order). During the year, just over 1,200 decisions were issued at first instance to stateless applicants. Most decisions were taken in France, Sweden, the Netherlands, Germany and Switzerland (in descending order). At the end of 2023, 1,900 cases of stateless applicants were pending at first instance in EU+ countries.

The recognition rate of stateless applicants was 53% in 2023, relatively similar to the past few years but much lower than during the refugee crisis of 2015-2016 (when nearly 9 in 10 decisions were positive). Among the countries issuing most decisions, the recognition rates were highest in Switzerland (89%), the Netherlands (78%) and Germany (64%) and lowest in France and Sweden (30% and 29%, respectively).

At the national level, EU+ countries approved and adopted legislative amendments affecting stateless persons, including stateless asylum seekers and beneficiaries of international protection, as well as their children. Amidst positive developments, civil society organisations emphasised that more work needs to be done to identify and defend the rights of stateless people.

To increase awareness of the situation for stateless asylum seekers and refugees, civil society organisations developed briefings, held webinars, posted insights about challenges faced by stateless asylum seekers, wrote open letters and produced reports, including submissions to human rights commissions. In addition, a new trend emerged in filling information gaps pertaining to statelessness and COI.

3.12.1. Changing legislation and improving the situation of stateless asylum seekers and refugees

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3.12.2. Stateless Palestinians

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3.12.3. COI and statelessness

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- 824UNHCR. (1954). 1954 Convention relating to the Status of Stateless Persons.
- 825European Parliament. (27 November 2023). *Report on the situation of fundamental rights in the European Union, Annual report 2022 and 2023*.

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