**Please cite as:** EUAA, '3.12.1. Changing legislation and improving the situation of stateless asylum seekers and refugees' in *Asylum Report 2024*, June 2024.

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

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

The recognition as being stateless can be difficult for asylum seekers and beneficiaries of international protection depending on national legislation, practices and policies. The European Migration Network (EMN) published an updated inform on the situation of statelessness in the EU and Norway. Among other key findings, the inform found that there was no harmonisation among EU+ countries on the procedures they use to determine statelessness, which include:

- dedicated administrative determination procedures;
- general administrative procedures or within another administrative procedure;
- ad hoc administrative procedures; and
- judicial procedures (for example in Belgium for cases when the applicant is not a legal resident in the country).826

Several legislative developments to increase recognition and ensure that the rights of stateless persons are protected were introduced in 2023. The Council of Ministers in Belgium approved a reform on 9 March 2023 that enables stateless persons who are already residing in Belgium to apply for a 5-year temporary residence permit. Following the reform, a permanent resident visa may be issued if the individual still fulfils the requirements after 5 years, while currently stateless people can only rely on a residence permit for humanitarian reasons.827

In addition, the reform would also introduce a right of residence for stateless persons who do not qualify for international protection status. This new procedure, which will come into force during 2024, will provide greater legal certainty for this group of people.828UNHCR welcomed the proposals but noted that the law in its current form risked weakening protection by adding a statelessness determination procedure in parallel to the residence permit procedure, and thus introducing additional criteria.829Nansen and the ENS agreed that the hybrid character of the proposed procedure may give rise to several legal questions and suggested the swift introduction of an information campaign for all stakeholders.830

In the absence of a definition of stateless persons in national law, the SMA in Sweden issued a

new legal position on 27 March 2023 to increase consistency and predictability. It clarifies how statelessness should be defined and how the SMA should investigate this aspect in connection with the determination of an applicant's identity.[831]Without a statelessness determination procedure in place, the legal position offers guidance on how an assessment of statelessness should be conducted.

In June 2023, the Dutch Parliament passed a legislative package pertaining to statelessness, which has been in the works since 2014. The first bill, the Statelessness Determination Procedure Act, established a new statelessness determination procedure. The second bill, which amends the Dutch Nationality Act, provides stateless children born in the Netherlands with a pathway to Dutch nationality. This was seen as a positive development for many children who are born to applicants or beneficiaries of international protection and who are unable to inherit citizenship from their parents.[832]

An amendment of the Act on the Residence of Foreigners in Czechia, which went into effect in July 2023, provides a definition of a stateless person and includes relevant provisions concerning recognition, procedures and the content of protection.[833]Similarly, the Portuguese Parliament passed a law in August 2023 that defines a stateless person and recognises that those who meet the criteria of the 1954 Convention are entitled to both stateless status and a travel document. The law amends existing provisions of the Asylum Act and the Immigration Act.

While national authorities took steps to eradicate the situation of statelessness, international and civil society organisations advocated for clearer measures and offered their insights on existing limitations and possibilities for further improvements.[834], [835], [836], [837] For example, at the launch of its report "Mapping Statelessness in Ireland" and in line with its campaign to end statelessness, UNHCR called on the Irish government to introduce a new procedure to recognise the rights of stateless persons in Ireland.[838]In addition, during her visit to Denmark, the Council of Europe's Commissioner for Human Rights underlined the rising number of stateless persons and invited the authorities to facilitate access to citizenship for children and young people who were born or grew up in Denmark.[839]The UNCAT recommended for Slovenia to establish a stateless determination procedure and follow-up on its expressed commitment to ratify the Convention on the Reduction of Statelessness,[840]and in December 2023 during the Global Refugee Forum, Slovenia pledged that it would accede to the 1961 Convention.[841]

The ENS continued to organise the #StatelessJourneys Campaign, which calls for full access to rights and support for stateless refugees.[842]As part of the campaign, the ENS published a series of thematic briefings designed to assist refugee response actors on different aspects of the asylum process and statelessness[843]and hosted a series of webinars on "Identifying and Addressing Statelessness in the Refugee Context".[844]

Under the umbrella of the Stateless Journeys Campaign, the #DesplazamientosApátridas campaign sought to enhance the rights of stateless refugees in Spain by collecting stories from affected communities. The stories highlight the protection needs and everyday challenges faced by stateless refugees in Spain and across Europe.[845]

The Bhutanese Refugee Community in Denmark urged for action on statelessness. The Association of the Bhutanese Community (ABC Danmark) published an open letter to the Danish

government, released a comprehensive report on resettled Bhutanese refugees in Denmark,[846] and together with the ENS published a video providing an intimate look into the daily challenges faced by the community.[847]

Aditus Foundation, the ENS and the Institute on Statelessness and Inclusion made a joint submission to the Human Rights Council for Universal Periodic Review on the right to nationality and human rights challenges related to statelessness in Malta, including the challenges faced by asylum seekers and migrants.[848]Maltese authorities underlined that individual cases are decided on a case-by-case basis, while they were currently examining the possibility of setting up a formal determination mechanism to identify stateless persons. The authorities also highlighted that all births in Malta were registered, both for Maltese and foreigners.

In the context of Russia's invasion of Ukraine, UNHCR estimated that there were at least 35,000 stateless people in Ukraine,[849]while other sources suggested that there may be many more.[850] Stateless people fleeing the conflict in Ukraine faced additional challenges in obtaining temporary protection, as they lacked citizenship or documentation, making it difficult to prove their link to Ukraine.[851]In addition, under the Temporary Protection Directive, Member States are not required to extend temporary protection to all categories of stateless persons and practices varied across countries. Namely, pursuant to the Council Decision activating the Temporary Protection Directive, temporary protection applies to stateless persons who were beneficiaries of international protection in Ukraine before 24 February 2022 and stateless persons who can prove that they were legally residing in Ukraine before 24 February 2022 on the basis of a valid permanent residence permit and who are unable to return in safe and durable conditions to their country or region of origin.

- [826]European Migration Network. (26 April 2023). *Statelessness in the European Union, Norway and Georgia: EMN Inform*.

- [827]European Migration Network. (9 March 2023). *Today, the Council of Ministers approved a first package of reform measures by Secretary of State for Asylum and Migration Nicole de Moor*.

- [828]European Migration Network. (6 December 2023). *A draft law introducing a new right of residence for stateless persons is currently being discussed in Parliament.* https://emnbelgium.be/news/draft-law-introducing-new-right-residence-stateless-persons-currently-being-discussed
- [829]https://www.refworld.org/legal/natlegcomments/unhcr/2023/fr/147077
- [830]https://nansen-refugee.be/wp-content/uploads/2023/12/231205-Avis-conjoint-Apatridie-NANSEN-ENS_defi-1.pdf
- [831]Swedish Migration Agency | Migrationsverket. (27 March 2023). *Rättsligt ställningstagande. Bedömning av statslöshet som en del av en persons identitet - RS/003/2023 [Legal position. Assessment of statelessness as part of a person's identity - RS/003/2023]*.

- [832]Senate of the Netherlands | Eerste Kamer der Staten-Generaal. (6 June 2023). Wet vaststellingsprocedure staatloosheid [Statelessness Determination Procedure

Act]. https:/www.eerstekamer.nl/wetsvoorstel/35687_wet_vaststellingsprocedure

Senate of the Netherlands | Eerste Kamer der Staten-Generaal. (6 June 2023). *Intrekking voorbehouden Verdrag status van staatlozen in verband met de vaststelling van staatloosheid 35.688 (R2151) [Withdrawal reservations Treaty on status of stateless persons in connection with the determination of statelessness]*. https:/

- 833United Nations High Commissioner for Refugees. (September 2023). Czech Republic Factsheet.

- 834European Network on Statelessness (ENS). (2023). *Input to the Asylum Report 2024*.

- 835European Network on Statelessness. (22 June 2023). *Netherlands passes new bills on statelessness, but concerns remain.* https://www.statelessness.eu/updates/news/netherlands-passes-new-bills-statelessness-concerns-remain

  European Network on Statelessness. (2023). *Statelessness and the Ukraine crisis response.*
- 836European Network on Statelessness (ENS). (2023). Input to the Asylum Report 2024.

- 837European Network on Statelessness. (September 2023). *ENS Newsletter: A quarterly update on statelessness in Europe.* https://mailchi.mp/statelessness/ens-newsletter-september

  Republic Diary | Diário da República. (10 August 2023). Lei n.º 41/2023, de 10 de agosto [Law No 41/2023, of August 10].
- 838United Nations High Commissioner for Refugees (UNHCR) Ireland. (23 May 2023*). Irish Government urged to take action as part of UN campaign to end statelessness* . https://www.unhcr.org/ie/news/press-releases/irish-government-urged-take-action-part-un-campaign-end-statelessness
- 839Council of Europe (CoE), Commissioner for Human Rights (16 November 2023). *Denmark: Refocus on protection and integration in asylum policy and step up measures to improve the situation of persons with disabilities*.

- 840United Nations Human Rights Office. (7 December 2023). *Concluding observations on the fourth periodic report of Slovenia*.

- 841Ministry of the Interior of the Republic of Slovenia | Ministrstvo za notranje zadeve. (21 December 2023). *Slovenija napovedala pristop h Konvenciji o zmanjšanju števila oseb brez državljanstva [Slovenia announced its accession to the Convention on the Reduction of the Number of Stateless Persons].* https://www.gov.si/novice/2023-12-21-slovenija-napovedala-pristop-h-konvenciji-o-zmanjsanju-stevila-oseb-brez-drzavljanstva/
- 842Stateless Journeys. (2022). *The Campaign - Stateless Journeys*; Stateless Journeys. (2023). *Desplazamientos Apatridas - Stateless Journeys*.

- 843European Network on Statelessness. (2023, January 12). *Identifying and addressing statelessness in the refugee context*.
- 844European Network on Statelessness. (2023). #StatelessJourneys Webinar Series.
- 845European Network on Statelessness. (June 2023). *ENS Newsletter: A quarterly update on statelessness in Europe*.
- 846European Network on Statelessness. (September 2023). *ENS Newsletter: A quarterly update on statelessness in Europe.* https://mailchi.mp/statelessness/ens-newsletter-september

  European Network on Statelessness. (2023, Augustus 10). *Advocating for Change: Bhutanese Refugee Community in Denmark urges action on Statelessness.*
- 847European Network on Statelessness. (22 November 2023). *Stateless Bhutanese Refugees in Denmark: Lok Maya's Story*.
- 848Aditus Foundation, European Network on Statelessness (ENS) and Institute on Statelessness and Inclusion. (2023, July 18). *Joint Submission to the Human Rights Council: Universal Periodic Review*.
- 849UNHCR Ukraine. (31 January 2022). *Strengthened protection for stateless people in Ukraine: 737 stateless persons applied to determine their status in 2021* . https://www.unhcr.org/ua/en/41381-strengthened-protection-for-stateless-people-in-ukraine-737-stateless-persons-applied-to-determine-their-status-in-2021.html
- 850European Network on Statelessness. (2023). *Statelessness and the Ukraine crisis response.*
- 851European Network on Statelessness. (2023). *Statelessness and the Ukraine crisis response*.

© European Union Agency for Asylum 2026 | Email: info@euaa.europa.eu