

# Statelessness and Children

Adolfo Sommaribas

Coordinator EMN Platform on Statelessness

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# Introduction

# EMN Platform on Statelessness

## EMN Platform on Statelessness

Platform was created by the Council Conclusions of 3 - 4 December 2015

- *Invite the Commission to launch exchanges of good practices among Member States, **using the European Migration Network as a platform;***
- *Invite Member States' national contact points to actively participate in that platform providing all relevant information with a view to ensuring that it will be a useful instrument in order to achieve the objectives of **reducing the number of stateless people, strengthening their protection and reducing the risk of discrimination.***

Platform is coordinated by EMN Luxembourg

## Activities

- Produce policy briefs [EMN Inform] on the state of play of statelessness in the EU;
- Exchange information and best practices between Member States, international organisations and civil society;
- Organise activities in collaboration with international organisations, relevant EU agencies and NGOs in order to raise awareness on statelessness and the means to reduce it.

# Section II

# Statelessness



## Statelessness background

- Statelessness is a ***legal anomaly*** which often prevents people from accessing fundamental civil, political, economic, cultural and social rights
- Statelessness is a global problem which affects 12 million people around the world (UNHCR)
- A stateless child is born every 10 minutes
- There are approximately 600,000 stateless persons in the EU
- Increased flow of stateless persons in the EU

## Main causes

The main causes of statelessness are:

- state succession,
- ill-defined or discriminatory nationality laws,
- arbitrary deprivation of nationality,
- displacement and forced migration,
- birth to a stateless person,
- lack of birth registration or inability to satisfy certain requirements for the acquisition of nationality.

# Section III

# Situation of Stateless Children



## The situation of stateless minors

Stateless children born in the MS (*iure soli* applied automatically at birth or subject to certain conditions and modalities)

- In some MS this only applies to foundlings up to the age of 6 months (AT)

Other EU MS facilitate access to nationality under other procedures

However, in most EU MS there are gaps in the legal framework -> some children born stateless in their territory cannot access nationality

- Some EU MS require the child to be born on their territory to parents legally residing in the MS (e.g. CZ, EE, HU, LV, NO)

# The situation of stateless minors

## Children born in exile

- Birth certificates -> HU, LT, LU & SI cannot issue a birth certificate to these children
  - Some MS grant a birth certificate to a child independent his/her migration status (EL, GE)
  - Some MS grant a birth certificate if they are recognized refugee (AT, BE) or depending on the legal status of the parents (IT, NL, SE)
  - Some MS grant a birth certificate who are under the competence of the immigration authority and entered the territory without documents (FR – it can also be done through the courts – FR, ES)

# The situation of stateless minors

## Children born in exile

- Determination procedure (no specific determination procedure)
  - BE, CZ, FI, FR, HU, LV, LT, LU, SI, SE, GE & NO apply the same determination procedure than adults.
  - Judicial procedures (IT)
  - Ad-hoc procedures (HR)
  - Legal representation during the determination procedure -> Most MS guarantee the legal representation of the UAM during administrative procedures
  - Burden of Proof (most MS lay the burden of proof on the application, in LV and GE the burden of proof is shared and only DE is the only country whose authorities have discretionary power to make the determination.

# Conclusions

All MS facilitate the access to nationality for stateless children.

There is no specific determination procedure for UAM

- In most cases guardian is appointed
- Legal aid is provided (except LV)
- Burden of proof remains with the applicant (except DE)

# THANK YOU FOR YOUR ATTENTION!



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European Migration Network (EMN) Luxembourg

