

STATELESSNESS AND THE EU PACT ON MIGRATION AND ASYLUM

Key advocacy messages | February 2025



Croatia: Nine-year-old Medina shows off her school report after she had to repeat first grade at her school in Croatia because of a mistake on her birth certificate issued in France where she was born. To correct the error, her parents would have to go through a long and expensive procedure in France which they cannot afford, so Medina does not exist in the eyes of the Croatian state. © UNHCR/Sanjin Kaštelan

Introduction

The identification of statelessness in a migratory context is important to ensure stateless people are protected and future possible situations of statelessness are prevented. According to EUROSTAT data, between 2014 and 2023, on average 2% of asylum seekers in the EU were recorded as stateless or of “unknown” nationality. Statelessness can impact an individual’s asylum claim, as statelessness may be linked to forms of persecution or severe rights violations, such as the denial of nationality based on ethnicity, religion or social status. The identification of statelessness is essential not only for assessing asylum claims accurately, but also for ensuring that stateless people are able to access their rights under the 1954 Convention, particularly when they do not qualify for refugee status or subsidiary protection. Furthermore, identifying statelessness is key to safeguard the rights of children born in the EU who would otherwise be stateless, ensuring they have a clear pathway to nationality and protection under international law.

Statelessness in the EU Pact on Migration and Asylum

The EU Pact on Migration and Asylum contains several references to statelessness and emphasizes the importance of identifying and protecting stateless persons within asylum and migration processes.

The Screening Regulation includes the international legal definition of a stateless person and mandates preliminary vulnerability checks by trained personnel to identify individuals who may be stateless, ensuring that their nationality or statelessness status, previous countries of residence, and languages spoken are documented.

The Asylum Procedures Regulation (APR) also includes the international legal definition of a stateless person and reminds Member States to uphold their international obligations toward stateless persons, including under the 1954 Convention on the Status of Stateless Persons. It stresses the need to identify and protect stateless persons, allowing them to enjoy fundamental rights and reduce the risk of discrimination and unequal treatment. The APR also mandates the clear registration of claims of statelessness during asylum procedures and ensures that relevant documentation reflects an individual's statelessness status.

The Asylum and Migration Management Regulation (AMMR) further reiterates the need for Member States to respect international obligations towards stateless persons, strengthen their protection and avoid discrimination. The regulation includes provisions to collect data on stateless persons who have been granted international or temporary protection. It also incorporates the international legal definition of a stateless person.

The Regulation on the establishment of EURODAC supports these commitments, recalling the EU's pledge that all Member States should accede to the 1954 Convention and consider acceding to the 1961 Convention on the Reduction of Statelessness.

Key advocacy messages

To ensure that these statelessness provisions are reflected in Member States' national implementation plans, UNHCR advocates for:



Training of asylum authorities and other key actors on statelessness and the identification of statelessness risk indicators. Training on (the identification of) statelessness should be made available to anyone involved in the asylum process. UNHCR stands ready to support such efforts.



Development of tools to assist asylum officials and other frontline actors, including those involved in screening at the EU's external borders, with the identification of statelessness risk indicators. These tools could include a list of risk indicators, questionnaires, and risk profiles.



Provision of free legal assistance to stateless people and people at risk of statelessness to ensure they are supported in accessing nationality, civil status registration, and identity procedures and documents, and empowered to claim and advocate for their rights.



Establishment of a referral mechanism to ensure that people who are identified as potentially stateless are referred to an **appropriate procedure to have their status determined**. Dedicated statelessness determination or nationality verification procedures are needed to ensure that stateless people can access their rights under the 1954 Convention relating to the Status of Stateless Persons. It is up to Member States to decide on the design and operation of those procedures, but it is important that they incorporate essential procedural safeguards in line with international guidelines. Where an individual raises both a refugee and statelessness claim, it is important that both claims are assessed and both types of status explicitly recognized, while providing for the possibility to suspend statelessness determination to ensure confidentiality.



Dedicated outreach to stateless people and people at risk of statelessness. Stateless people may not know that they are stateless and navigating different procedures may be complex. To ensure stateless persons are aware of their rights, Member States and other relevant actors are encouraged to engage in awareness-raising among stateless communities and people at risk of statelessness about their rights in the context of the implementation of the Pact.



Collection and recording of data on statelessness throughout the asylum process to protect people against arbitrary detention and ensure they are provided with appropriate assistance. The collection and recording of statelessness data will also assist Member States with their reporting obligations under the AMMR and regulation on the establishment of EURODAC.



Return of stateless people to their country of former habitual residence to only take place where the individual has a realistic prospect of obtaining protection in that country. In UNHCR's view, protection can only be considered available in another country when a stateless person (1) is able to acquire or reacquire nationality through a simple, rapid, and non-discretionary procedure, which is a mere formality; or (2) enjoys permanent residence status in a country of previous habitual residence to which immediate return is possible.

Key resources

For further information about statelessness and the EU Pact on Migration and Asylum, please consult:

European Network on Statelessness (ENS), [Implementing the Statelessness Provisions in the EU Pact on Migration and Asylum](#), October 2024.

European Network on Statelessness (ENS), [Statelessness and the EU Pact on Migration and Asylum: Analysis and Recommendations for Implementation](#), May 2024.

Annex: Statelessness provisions in the pact

Screening Regulation

- Recital 37: “a preliminary vulnerability check should be carried out with a view to identifying persons with indications of [...] being stateless [...]”
- Article 2(5): “‘stateless person’ means a person who is not considered as a national by any State under the operation of its law.”
- Article 12(3): “Third-country nationals submitted to the screening referred to in Article 3 and Article 5 shall be subject to a preliminary vulnerability check by specialised personnel of the screening authorities trained for that purpose with a view to identifying any indication that a third-country national may be a stateless person [...]”
- Article 17(1)(b): “indication of nationalities or statelessness, countries of residence prior to arrival and languages spoken.”

Asylum Procedures Regulation (APR)

- Recital 24: “Member States should respect their international obligations towards stateless persons, in accordance with international human rights law instruments including where applicable under the Convention relating to the Status of Stateless Persons, signed in New York on 28 September 1954. Where appropriate, Member States should endeavour to identify stateless persons and strengthening their protection thus allowing stateless persons to enjoy core fundamental rights and reducing the risk of discrimination or unequal treatment.”
- Article 3(15): “‘stateless person’ means a person who is not considered as a national by any State under the operation of its law.”
- Article 27(2): “Where an individual claims not to have a nationality, that fact shall be clearly registered pending the determination of whether the individual is stateless.”
- Article 29(4)(a): document to confirm the application should include at least “the applicant’s [...] nationalities or, if applicable, an indication of statelessness [...]”.

Asylum and Migration Management Regulation (AMMR)

- Recital 49: “Member States should respect their international obligations towards stateless persons in accordance with international human rights law instruments including where applicable under the Convention relating to the Status of Stateless Persons, signed in New York on 28 September 1954. Where appropriate, Member States should endeavour to identify stateless persons and strengthen their protection thus allowing stateless persons to enjoy core fundamental rights and reducing the risk of discrimination or unequal treatment.”
- Article 2(2): “‘stateless person’ means a person who is not considered as a national by any State under the operation of its law”.
- Article 9(3)a: “The [European Annual Asylum and Migration Report] shall contain [...] the number of [...] stateless persons who have been granted international protection” and “the number of [...] stateless persons enjoying temporary protection in accordance with Directive 2001/55/EC.”

Regulation on the establishment of EURODAC

- Recital 56: “In its conclusions on Statelessness of 4 December 2015, the Council and the Representatives of the Governments of the Member States recalled the Union’s pledge of September 2012 that all Member States were to accede to the 1954 Convention relating to the Status of Stateless Persons and were to consider acceding to the 1961 Convention on the Reduction of Statelessness.”