

Ad-Hoc Query from Luxembourg and the European Commission

Requested on 4th May 2016
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**Statelessness:
minors born in exile
and unaccompanied
minors (part 1)**



Responses from:

Responses from Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, United Kingdom, Norway (25 in total)

Disclaimer: The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.

1. Background Information

Statelessness as a legal anomaly it prevents people from accessing fundamental human, civil, political, economic, social and cultural rights. Hence, most of the current 10 million stateless persons scattered around the world are living in conditions of protracted marginalization and discrimination, facing numerous difficulties, such as the inability of receiving medical assistance, enrolling in educational programs, acquiring property, being legally employed, becoming married or opening up a bank account. The Luxembourgish government has been very interested on the issue of statelessness and asked the LU EMN NCP to launch an ad-hoc query on recognition of statelessness on 12 March 2015. This ad-hoc query allowed to determine the state of play on the recognition procedures in the EU. The LU EMN NCP following the Justice and Home Affairs Council conclusions of 3 and 4 December 2015 which considered the EMN as a platform for exchange of information and good practices, decided to dedicate this year conference to the subject of statelessness. The conference entitled "Tackling Statelessness: Exchange of Experiences and Good Practices", on the 15th of April 2016, grappled with the issue of statelessness. Although the framework was interdisciplinary (policy makers, academics, lawyers, NGOs and international organizations) and hence, the presentations variegated throughout the panels, the strategies and approaches intended to efficiently prevent statelessness emerged as common themes. Certain groups, among which migrants and refugees, minorities and more specifically minors are particularly vulnerable and hence jeopardized. Following these conclusions, COM and the LU EMN NCP would like to update the ad-hoc query launched and enhance knowledge on minors born in exile as well as unaccompanied minors particularly at risk of being stateless. For these reasons the present ad-hoc query will be launched in two parts. The first one will comprehend general questions and the second part comprehends questions regarding minors born in exile and unaccompanied minors.

Questions:

- 1. Does your MS have made any legislative or administrative changes in the recognition procedures of statelessness since 2015? (Please refer to the LU EMN NCP Ad-hoc query on recognition of statelessness launched on 12 March 2015).**
- 2. Is your MS a State Party to the 1961 Convention on the reduction of statelessness? If yes, please indicate the date and the legislation in question?**
- 3. If no, please indicate the reasons why your MS did not ratify the convention and if your MS is planning to do so. Do you have a determination procedure of nationality for deal with stateless persons? (This is an update of the LU EMN NCP Ad-Hoc Query on recognition of stateless persons requested on 26th February 2015, so if there have not been any changes please refer to the answer of your MS to this query).**
- 4. Does the recognition of the statelessness status to an individual grant a right to a residence permit in your MS? If the answer is no, please explain what is the procedure that the beneficiary has to fulfil to obtain a residence permit. If your MS does not have a procedure for the recognition of statelessness status, how are stateless persons granted a residence permit?**
- 5. Does your MS facilitate the access to nationality to individuals who have been granted the stateless status? Can you please explain the procedure?**

2. Responses

	Wider Dissemination?	
Austria	YES	<p>1. No. Source: Federal Ministry of the Interior.</p> <p>2. Yes, Austria ratified the Convention in 1972. It entered into effect in Austria as of 13 December 1975 (Federal Law Gazette No. 538/1974 as most recently amended by Federal Law Gazette III No. 222/2013) and was transposed into national law within the framework of the 1985 Citizenship Act (Staatsbürgerschaftsgesetz 1985). Source: Federal Ministry of the Interior.</p> <p>3. Austria has no procedure for recognizing statelessness. With regard to issuing residence titles, stateless persons are equal to other third-country nationals. The provisions governing the procedure for issuing a residence title are specified in the Settlement and Residence Act (Niederlassungs- und Aufenthaltsgesetz). Source: Federal Ministry of the Interior.</p> <p>4. Stateless persons normally have to meet the same general requirements as other persons applying for citizenship. These include at least ten years of uninterrupted legal residence in Austria, of which at least five of those years were under a Settlement Permit. Applicants for citizenship must additionally provide evidence of proficiency in German at B1 level, of adequate means of subsistence and of irreproachability (Unbescholtenheit). Irreproachability of the applicant for citizenship signifies that: the person has not been convicted with final effect by an Austrian or foreign court of law to imprisonment on account of one or more deliberate acts; the person has not been convicted with final effect by an Austrian court of law to imprisonment on account of a financial offence; no proceedings before an Austrian criminal court are pending against the person on account of a suspected deliberate act or financial offence punishable by imprisonment. Art. 8, 11a and 14 of the Citizenship Act specify conditions for simplified acquisition of citizenship: Individuals born in Austria can become naturalized citizens after an uninterrupted six-year period of legal residence. A stateless person born in Austria can as of the age of 18 request citizenship to be granted, provided that person was born within the territory of Austria and has had their primary residence within the territory of Austria for at least ten years, of which an uninterrupted period of at least five years must have been immediately prior to being granted citizenship. The stateless person must not have been convicted with final effect to imprisonment for five or more years either by an Austrian or foreign court of law. Punishable acts serving as the basis for any conviction by a foreign court must be punishable pursuant to Austrian law by an Austrian court and the conviction must be handed down in proceedings complying with Art. 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, Federal Law Gazette No. 210/1958. The stateless person must also not have been convicted by an Austrian court of law under any of the legal provisions listed below:</p> <p>a) Art. 103, 124, 242, 244, 246, 248, 252 bis 254, 256, 257 para 2, 258, 259, 260, 269, 274 to 276, 278a to 278d, 279 to 285 and 320 Criminal Code (Strafgesetzbuch), Federal Law Gazette No. 60/1974;</p> <p>b) Art. 277 and 278 Criminal Code, where the act was committed in connection with a criminal act pursuant to Art. 103 Criminal Code;</p>

		<p>c) Art. 286, where the act was committed in connection with any of the criminal acts listed under a); d) Art. 3a and 3b as well as 3d to 3g of the 1947 National Socialism Prohibition Act. Statelessness is additionally avoided through the provision specifying that in Austria foundlings are to be considered Austrian citizens until proven otherwise. Source: Federal Ministry of the Interior.</p>
Belgium	Yes	<p>1. No, please see LU EMN NCP Ad-hoc query on recognition of statelessness 2015.</p> <p>2. Yes, on 10 June 2014 Belgium adopted the law on the implementation of the 1961 United Nations Convention on the reduction of Statelessness: à 10 JUIN 2014. - Loi portant assentiment À la Convention des Nations unies sur la réduction des cas d'apatridie, faite À New York le 30 août 1961 (http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=2014061020&table_name=loi). Accession to the 1961 Convention on the reduction of statelessness on 1 July 2014. Note: Belgium à reservations to the 1961 Convention on the reduction of statelessness: - Declaration concerning article 2 of the Convention: The Belgian Government declares that, for Belgium, the category of à foundlingsâ concerns found children who are believed to be newborn. - Declaration concerning article 8, paragraph 3 of the Convention: Belgium reserves the right to deprive of his nationality a person who did not acquire it by virtue of a Belgian individual on the day of his birth, or who was not granted it under the Belgian Nationality Code, in the cases currently provided for under Belgian legislation, namely: 1. If the person acquired Belgian nationality through fraudulent conduct, provision of false information, forgery and/or the use of false or falsified documents, identity fraud or fraudulent acquisition of the right of residency; 2. If he seriously violates his duties as a Belgian citizen; 3. If he has been sentenced as perpetrator, co-perpetrator or accomplice, to a non-suspended prison sentence of at least five years for one of the following offences: - Attacks or plots against the King, the Royal Family or the Government; - Crimes or misdemeanours against the external security of the State; - Crimes or misdemeanours against the internal security of the State; - Serious violations of international humanitarian law; - Terrorist offences; - Threat of attack against persons or property, and false information regarding serious attacks; - Theft or extortion of nuclear materials; - Offences relating to the physical protection of nuclear materials; - Human trafficking; - People smuggling; 4. If he has been sentenced as perpetrator, co-perpetrator or accomplice, to a non-suspended prison sentence of at least five years for an offence that was manifestly facilitated by the possession of Belgian nationality, provided that the offence was committed within five years of the acquisition of Belgian nationality. DETERMINATION PROCEDURE: No, in the LU EMN NCP Ad-Hoc Query on recognition of stateless persons 2015 we stated that Belgium was considering adopting a dedicated mechanism to determine statelessness, but until now it is not in place. So, Belgian legislation does not currently provide a specific procedure or authority for recognising individuals as stateless persons. Persons who would like formal recognition as stateless individuals can submit a so-called 'request regarding the state of a person' to a Court of first instance in his residential location in Belgium. Applicants have access to this procedure irrespective of their migratory status in the country. Unlike asylum-seekers, however, they are not given a temporary legal residency status for the duration of the procedure. The burden of proof lies with the applicant (the applicant must provide his own evidence that confirms his statelessness) i.e. he/she must present documents from the embassy or another diplomatic post of the countries with which he/she has ties, showing he/she does not have the nationality of this country. Or submit the legislation of those countries on nationality. Countries with which he/she has ties can be the country where he/she was born, where he/she has stayed (country of residence), of which his/her spouse is a national, etc. Based on these documents, it must be proved that the applicant has never had a nationality or that he/she has lost his/her nationality and has no possibility of getting it back. If the request for recognition as a stateless person is refused, the person concerned can lodge an appeal to the Court of Appeal.</p> <p>3. No, the Belgian Immigration Act does not link a right of residence to the recognition of the status of stateless person. The stateless person and his/her relatives do not have a right of temporary residence during the procedure before the Court of First Instance. As soon as he/she is recognised as a stateless person, the foreigner, just like other foreigners in exceptional circumstances, must use the humanitarian regularisation procedure (Art. 9bis of the Immigration Act) on the ground that it is impossible to return (competence of the Immigration Office in charge of access to the territory, residence, establishment and removal of foreigners) to obtain a residence permit. If the stateless person is granted a regularisation he will receive a à Certificate of Inscription in the Aliensâ Registerâ. This is a residence permit for an unlimited duration.</p>

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		<p>4. Yes, via article 19Â§2 of the Belgian Nationality Code (28 JUN 1984. - Code de la nationalitÃ© belge, http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=1984062835&table_name=loi). Recognised stateless persons can use the exceptional naturalisation procedure, granted by the Federal Parliament (House of Representatives) only on the basis of exceptional merit or statelessness. Naturalisation is a concessionary measure granted by the House of Representatives. In contrast to the declaration procedure, foreigners using the naturalisation procedure have no right to Belgian nationality, but the House of Representatives may nevertheless grant Belgian nationality as a concession (favour). Recognised stateless persons must have had their main place of residence in Belgium for two years in order to be naturalised (instead of 5 years for the nationality declaration procedure). Procedure: Conditions: 1. Minimum 18 years old; 2. Recognised as stateless person; 3. An uninterrupted lawful residence in Belgium of minimum two years; 4. At the time of the application be in the possession of an unlimited lawful residence permit. Needed documents: 1. Birth certificate (note: the Office of the Commissioner General for Refugees and Stateless Persons (CGRS) issues documents - birth, marriage or death certificates - to recognised stateless persons as long as they can prove their identity and provide a certificate showing there is no ongoing appeal against the decision to be recognised as a stateless person); 2. Proof of residence with a chronological overview of the addresses; 3. A, by the municipality, certified true copy of the Certificate of Inscription in the Aliens Register; 4. Proof of the status of statelessness. The application for naturalization must be submitted to the civil registrar in the municipality where the applicant has his/her main place of residence or directly to the House of Representatives. If the dossier is considered complete and the registration fee of â–150 Euros is acquitted, the civil registrar shall forward the application to the House of Representatives. The House will then take a decision on granting naturalisation. The Public Prosecutor's Office, the Immigration Office and the National Security Department will all be consulted and have a period of four months in which to submit their opinion. Upon receipt of the opinion the application is examined by the Commission on Naturalisation of the House of Representatives. This Commission may propose a new investigation, the delaying, the approval or the rejection of the application. The approved proposal of the Commission will be submitted to the plenary of the House of Representatives. The Act (which takes the form of a law) with approved proposals by the House of Representatives is submitted to the King for ratification. This Act is published in the Belgian Official Gazette. The recognised stateless person receives the Belgian nationality on the date the Act is published in the Belgian Official Gazette. S/he is summoned by the municipality council (place of residence) to accept his/her new identity card. Note: The total duration of the naturalisation procedure is not laid down in law, but it takes at least two years. Because of the high number of applications for naturalisation, the process can even take longer. If the demand for naturalisation is refused, the applicant has a period of one month to submit comments regarding the decision of the Commission of Naturalisation. These comments must be sent by mail, not registered mail, to the Naturalisation Commission. In the case of a definitive rejection of the application, the person concerned may submit a new application.</p>
Bulgaria	Yes	<p>1. Yes, there are some changes initiated in the Law for the Foreigners in republic of Bulgaria concerning the category "Stateless". At the moment the changes are in the National Parliament under procedure for adoption.</p> <p>2. Yes, since 2012 ratified by an act of the National Parliament and entry into force for Republic of Bulgaria.</p> <p>3. Under procedure for implementation of the category "Stateless" according to the forthcoming legislative changes.</p> <p>4. Under procedure for implementation of the category "Stateless" according to the forthcoming legislative changes.</p>
Croatia	Yes	<p>1. No. Regarding the procedures which are in competence of the Ministry of the Interior (i.e. the asylum procedure, regulating foreigner's status and the procedure of acquiring the Croatian nationality), upon submitting an application, MOI is obliged to assess in each case all the relevant elements of the application, which include applicant's statements and all the documentation at the applicant's disposal regarding his/her nationality(ies).</p>

		<p>2. Yes. Croatia became Party to the 1961 UN Convention on the Reduction of Statelessness in May, 2011. Croatian Parliament has passed a Law on Ratification of the Convention of the Reduction of Statelessness from 1961. (â Official Gazetteâ-international agreements, Nos. 8/11) on 27th of May 2011. By this accession, this Convention became part of internal legal system of the Republic of Croatia. Regarding the dedicated procedure in place to identify stateless persons, we inform you that the Ministry of the interior of the Republic of Croatia does not have a dedicated statelessness determination procedure. Also see answer 1.</p> <p>3. Recognition of a person as a stateless, does not automatically grant a right to a temporary or permanent residence. Under provisions of the Aliens Act, temporary residence can be granted to the foreigner who intends to reside or who resides for the following purposes: family reunification, secondary school education and university-level studies, scientific research, humanitarian reasons, work and work of an assigned worker. Permanent residence can be granted after legal uninterrupted period of five years, but also in other specific cases prescribed under Aliens Act. Upon submitting an application, all relevant elements of the application will be assessed in each case, including applicantâs statements and all the documentation at the applicantâs disposal regarding his/her nationality(ies). Consular authorities of countries with which the applicant has links to, can be contacted. If it is determined during a procedure that an applicant is stateless, he/she will be considered a stateless person for the purposes of that procedure. A person who is undoubtedly determined to be a stateless person, if granted a temporary or permanent residence, can be issued with a travel document for a stateless person.</p> <p>4. Yes. According to the Article 7 of the Law on Croatian Citizenship a child born or found within the area of the Republic of Croatia, whose both parents are unknown or of unknown citizenship or without citizenship acquires Croatian citizenship. The child’s Croatian citizenship will cease if by his fourteenth birthday, it is confirmed that both of his parents are foreign citizens. According to the Article 8 of the Law on Croatian Citizenship, person with statelessness status (a person without citizenship or a person who will lose his citizenship simply by naturalization, pursuant to laws of the country of his citizenship) has the right to submit a request for Croatian citizenship if: (i) he/she is 18 years old and that he is not deprived of working capacity, (ii) he/she has lived and has had a registered residence in the Republic of Croatia until the submission of the request for at least 8 years in continuation and has been granted foreigner status on his permanent residence; (iii) he/she is proficient in the Croatian language and Latin script, and is familiar with the Croatian culture and social arrangement, (iv) that it can be concluded from his/her behavior that he/she respects the legal order and customs of the Republic of Croatia. If a foreign country does not permit dismissal from its citizenship or it places requirements for dismissal which cannot be fulfilled, a statement of the applicant who has submitted a request will be sufficient to renounce his foreign citizenship under the conditions of acquisition of Croatian citizenship.</p>
Cyprus	Yes	<p>1. A bill regarding the ratification of the 1961 Convention is pending in the Parliament. There have been various discussions in the Committees of the Parliament during 2015.</p> <p>2. No. The relevant bill was submitted in the Parliament in 2011. All the major issues have been discussed. We are currently awaiting the conclusion of the internal consultation of the Members of the Parliament.</p> <p>3. Stateless persons are encouraged to submit an application for international protection. Once their claim has been verified, protection is granted to the persons, which offers them full access to the rights of persons legally residing in the Republic.</p> <p>4. Citizenship applications are examined on their own merits.</p>

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Czech Republic	Yes	<p>1. NO</p> <p>1. Yes, a minor legislative change in the asylum act is valid since 18.12.2015. The Act explicitly specifies that the Asylum Act mechanisms for status determination are applicable also to applications under Convention Relating to the Status of Stateless Persons.</p> <p>2. Yes. 19.12.2001, publication in the Collection of international treaties under no.43/2002.The main act is the Act on State Nationality.</p> <p>3. We do not have a special procedure for stateless status determination. Vast majority of stateless persons ask for international protection. Those who would like to regularise their stay by other means they can use standard procedure for aliens foreseen in the Foreigners Act, those whose departure is not possible may ask for special long term tolerance visa.</p> <p>4. Yes, the Act on State Nationality allows for certain exceptions (the same for persons granted international protection) concerning conditions that have to be fulfilled in order to get the Czech nationality. These exceptions concern the required length of stay and participation in the Czech social system due to insufficient income. This regulation concern stateless persons irrespective of whether the stateless status is granted to them or not. There are special provisions concerning children born in the Czech Republic (see part 2).</p>
Estonia	Yes	<p>1. No. There is currently no statelessness determination procedure in place in Estonia.</p> <p>2. No. Estonia has not ratified the 1961 Convention on the reduction of statelessness and as far as we know, there is no plan, at least in the near future to do that. The reason for not being part of the 1961 convention (according to a report of the Foreign Ministry in 2013), was that our citizenship law is partly in conflict with the Convention. Estonia's citizenship law is based on the jus sanguinis principle and the convention foresees granting citizenship to a person born in its territory who would otherwise be stateless (jus soli principle).</p> <p>3. Estonian does not have a procedure for the recognition of statelessness status. Thus, stateless persons can apply a residence permit on the same grounds as other third-country nationals. Former USSR residents, who now hold the status of persons with undetermined citizenship mostly hold a permanent or a long-term residence permit in Estonia. Persons with undetermined citizenship do have slightly preferable provisions for receiving a residence permit.</p> <p>4. Reducing the number of persons with undetermined citizenship (UND) has been and is one of the priorities of the Government, thereby increasing the number of Estonian citizens through naturalisation. As of 2016 all children born to parents of UND citizenship and children who are under the age of 15 years are granted Estonian citizenship automatically (naturalized). Parents may opt out on behalf of their child within one year from birth. Before the amendment, citizenship could be acquired only upon application and it was necessary to have the consent of both parents, which presented a barrier to the acquisition of nationality for some children in practice. Over the years information campaigns have been organized to improve people's awareness of the conditions to obtain Estonian citizenship. Estonian language courses are covered by the state, in case the citizenship exam is passed. Language courses are covered up to 384 EUR. People who have acquired a basic, secondary or higher education in the Estonian language are not required to take the language examination (level B1). People over 65 years and disabled persons are freed (partly) from the exams. Simplified access to long term resident's residence permit for those who have settled in Estonia before 1 July 1990 and who have factually resided and are still residing in Estonia and whose residence in Estonia does not pose a threat to the interests of the Estonian state.</p>

Finland	Yes	<p>1. No</p> <p>2. Yes, the 1961 Convention entered into force on the 5th of November 2008 in Finland. Law on entering into force of the Convention on the reduction of statelessness 493/2008 and Presidential Decree 674/2008, which confirms the entering into force of both the Convention and the law 493/2008 (unofficial translation).</p> <p>3. The FI answer in the mentioned ad hoc -query is still valid on these questions, i.e. Finland does not have specific statelessness determination procedure.</p> <p>4. No. A stateless person can be granted a residence permit on the same grounds, with the same requirements and in a similar procedure as a person with a nationality/citizenship.</p>
France		<p>1. The law of 29 July 2015, on the reform of asylum has created a dedicated chapter in the Code on Entry and Residence of Foreigners and Right of Asylum (CESEDA) for statelessness which gathers all existing measures related to stateless persons. This law thus gives more visibility to the status of stateless persons and a full recognition of their rights.</p> <p>2. France signed this convention on 31 May 1962 but has never ratified it and does not intend to do so. France has not ratified it in order to keep the possibility to withdraw French nationality (from a French national) . Consequently, France does not apply this convention. However, when signing this convention, France (and all signing countries) has to comply with the "aim and spirit" of this convention (in application of principle of good faith). Thus, the law of 16 March 1998 on nationality has created a disposal which prohibits any decision of deprivation of nationality if this implies that the person becomes stateless. The law of 29 July 2015 did not modify the process of applications for statelessness.</p> <p>3. See FR NCP response to the AHQ of March 2015.</p> <p>4. There is no specific process for stateless persons who want to apply for French nationality. They have to fulfill the criteria required in the French regulation (regular residence in France, knowledge of French language and respect of French rules and society, etc.).</p>
Germany	Yes	<p>1. No.</p> <p>2. Yes. Act implementing the Convention of 30 August 1961 on the Reduction of Statelessness and the Convention of 13 September 1973 to reduce the incidence of statelessness of 29 June 1977 (Federal Law Gazette part I page 1101) at last amended by the Act to Amend the Nationality Law by July 15, 1999 (Federal Law Gazette part I page 1618).</p> <p>3. The determination of statelessness itself does not substantiate any right to a residence title in Germany. Therefore, an appropriate legal basis has not been provided for in the Residence Act. The decision on residential status follows the general regulations for residence titles, in the same way as for third-country nationals. The residence permit is limited in accordance with its purpose; the residence permit is valid for one to two years when granted for the first time.</p> <p>4. Yes, in addition to the general requirements for naturalization easier conditions apply to Article 2 of the above mentioned (answer to question 2) Implementation Act. The provisions of the general citizenship law apply to the procedure. An example for the facilitation: children from persons with stateless status born after 01.01.2000 automatically receive the German citizenship.</p>

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Hungary	Yes	<p>1. The Constitutional Court determined in the Resolution 6/2015 (II.25.) that the term â lawfullyâ in Subsection (1) of Section 76 of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (hereafter: RRTN) is contrary to the Fundamental Law and annulled it with effect from 30 September 2015. After this legislative change the statelessness determination procedure has become available for any third-country nationals not just for those who stay lawfully in Hungary.</p> <p>2. Yes, the Hungarian Parliament has created Act XV. of 2009 to implement it.</p> <p>3. If the recognized stateless person doesnât have any kind of residence permit, a residence permit on humanitarian grounds will be issued by the immigration authority for him/her. In this case the validity period of a residence permit granted on humanitarian grounds shall be three years that may be extended by maximum one year at a time.</p> <p>4. The stateless person may obtain the Hungarian citizenship by naturalization. The main requirements are: residency in Hungary for at least three years; has no criminal record and is not under prosecution; accommodation and subsistence are assured in Hungary; naturalization does not violate the public and national security of Hungary; the applicant must pass an examination in basic constitutional studies in Hungarian language. [Act LV of 1993 on Hungarian Citizenship, Article 4, (2) section, point e]]</p>
Ireland	Yes	<p>1. No. Position remains unchanged from Ireland’s answer to LU EMN Ad Hoc Query: Recognition of Stateless Persons launched on 12 March 2015.</p> <p>2. Yes. Ireland acceded to the 1961 Convention on the reduction of statelessness in 1973. There is no specific implementing Act. However there are a number of provisions regarding statelessness in Irish nationality law: The Irish Nationality and Citizenship Act 1956 (as amended) contains certain provisions in relation to statelessness: Section 6(3) provides that: “a person born in the island of Ireland is an Irish citizen from birth if he or she is not entitled to citizenship of any other country.” - Section 16 provides that: “The Minister may, in his absolute discretion, grant an application for a certificate of naturalisation in the following cases, although the conditions for naturalisation (or any of them) are not complied with [.....] (g) where the applicant is a person who is a refugee within the meaning of the United Nations Convention relating to the Status of Refugees of the 28th day of July 1951 and the Protocol Relating to the Status of Refugees of the 31st day of July 1967 or is a Stateless Person within the meaning of the United Nations Convention relating to the Status of Stateless Persons of the 28th day of September 1954.” Irish Nationality and Citizenship Regulations 2011: Regulation 13(2)(a) waives the certification fee for naturalisation for a person to whom section 16(1)(g) above applies. Ireland has acceded to both the 1954 Convention relating to the Status of Stateless Persons and to the 1961 Convention on the Reduction of Statelessness. Ireland does not have a mechanism to systematically identify stateless persons. Ireland has granted a small number of statelessness determinations under the 1954 Convention on the status of Stateless Persons, based on particular circumstances surrounding individual cases. (Position unchanged from previous ad hoc query response).</p> <p>3. In cases where Ireland has granted a determination of statelessness under the 1954 Convention on the status of Stateless Persons, the person has been granted leave to remain. There is, however, no systematic procedure for making stateless determinations. Ireland has granted a small number of statelessness determinations under the 1954 Convention on the status of Stateless Persons, based on particular circumstances surrounding individual cases.</p> <p>4. - Section 16 of the Irish Nationality and Citizenship Act 1956 (as amended) provides that: “The Minister may, in his absolute discretion, grant an application for a certificate of naturalisation in the following cases, although the conditions for naturalisation (or any of them) are not complied with [.....] (g) where the applicant is a person who is a refugee within the meaning of the United Nations Convention relating to the Status of Refugees of the 28th day of July 1951 and the Protocol relating to the Status of Refugees of the 31st day of July 1967 or is a Stateless Person within the meaning of the United Nations Convention relating to the Status of Stateless Persons of the 28th day of September 1954.” As detailed in question 2 above, Regulation 13(2)(a) of the Irish Nationality and Citizenship Regulations 2011 waives the certification fee for naturalisation for a person to whom section 16(1)(g) (above) applies.</p>

Italy	Yes	<p>1. No, there have not been any changes in the legislation on the recognition of stateless status outlined in the LU EMN NCP Ad-hoc query on recognition of statelessness launched on 12 March 2015. However, on 26 November 2015, a bill was submitted to the Senate concerning the procedure for determining the status of stateless persons in the Prefectures à Territorial Government Offices. The main changes will concern: a) The possibility to request the status of stateless person for anyone who is in Italy, even if irregularly (Article 2); b) The issue by Police Authorities of a residence permit on grounds of "pending the outcome of the recognition procedure" (Article 4); c) The possibility for applicant with both regular and irregular status to submit self-certifications concerning their personal details and the length of their stay in Italy when making their applications (Article 4(2)). As can be seen by comparing these changes with the answers given in the Ad-hoc query of 12 March 2015, the approval of this bill would make the procedures for the recognition of statelessness status easier. Under the proposed text, an applicant may obtain a residence document even before the application procedure has been completed. At present, only foreigners who reside in Italy legally may apply for statelessness status through an administrative procedure. Moreover, the requirement of producing a birth certificate and a document proving residence in Italy is met by using self-certifications under the proposed text. Clearly, the aim of the rules that are being adopted is simplification.</p> <p>2. Yes, the Convention on the reduction of statelessness was ratified by Law No 162/2015, which makes provision for the full implementation of the Convention and sets out its text in full.</p> <p>3. Yes. Article 11 of Decree of the President of the Republic No 394/1999 establishes that a residence permit is issued to stateless persons who already have a valid residence document.</p> <p>4. Under Article 9 of Decree of the President of the Republic No 394/1999, a stateless person may apply for citizenship after five year of continuous residence in Italy. By contrast, other foreign nationals are only entitled to Italian citizenship after ten years of continuous residence in the country. The procedure for the recognition of citizenship is regulated by Articles 1, 2 and 2 of Decree of the President of the Republic No 394/1999. An application for Italian citizenship must be submitted to the Prefecture that has jurisdiction over the applicant's place of residence. The application must be accompanied by certain documents, including an extract of the birth certificate or an equivalent document, a certificate of family status, documents concerning the citizenship of the applicant's parents and all necessary and available certifications concerning criminal records and pending criminal proceedings. Under Article 6 of the above Decree (362/1994), a foreign national or a stateless person may apply for citizenship only if he or she has never committed certain crimes and does not pose a threat to the security of the State or to public policy. The procedure for granting stateless status is settled not later than 730 days (two years) from the date of submission of the application.</p>
Latvia	Yes	<p>1. No</p> <p>2. Latvia is a party to the 1961 Convention on the reduction of statelessness since 14.04.1992. Convention was approved by declaration of the government of Latvia in 04.05.1990 "About accession of the Republic of Latvia to the international legal instruments on human rights " (Paragraph 28).</p> <p>3. Stateless person can receive a temporary residence permit for 5 years. After this period a permanent residence permit can be received (person has to pass exam of Latvian language elementary level). To receive a residence permit, person shall submit documents provided in Immigration Law and pay a reduced state fee.</p> <p>4. There is no special naturalization procedure for stateless persons. There are special provisions for obtaining citizenship for new-borns. If both parents of the child are stateless persons, child can be registered as citizen of Latvia by intention of one of the parents at the moment when they register the birth of the child or till age of 15 of the child. The same provisions are in case if there is only one parent and he or she is stateless. The permanent place of residence of the parent who expressed the wish for his child to obtain Latvian citizenship should be Latvia. If parents have not registered a child as a citizen till age of 15, than between age 15 and 18 a child can claim citizenship by himself. He or she has to know Latvian language. To obtain Latvian citizenship after age of 18 person shall follow ordinary naturalization procedure.</p>

**Ad-Hoc Query:
Statelessness: minors born in exile
and unaccompanied minors (part 1)**

Lithuania	Yes	<p>1. No. As it is pointed out in the answer to the 2015 LU ad-hoc query, there is no such procedure as recognition of stateless status in Lithuania. Stateless persons fall under the same regulation as aliens, insofar as it is related to the issue of residence permits or visas.</p> <p>2. Yes. On 9 May 2013, the Seimas (Parliament) of the Republic of Lithuania ratified the 1961 United Nations Convention on the Reduction of Statelessness and passed amendments to the Law of the Republic of Lithuania on Citizenship facilitating naturalisation conditions for stateless persons. According to the amendments, stateless persons may apply for granting of the citizenship of the Republic of Lithuania (through naturalisation) if they have resided in Lithuania for the last five years (in other cases, the general requirement of the ten-year period of residence applies). This provision applies to the persons who were born in the territory of Lithuania and have not acquired the citizenship of another state.</p> <p>3. See the answer to Question 1.</p> <p>4. In addition to what is indicated in Question 2, it may be noted that, according to the Law of the Republic of Lithuania on Citizenship, a child of stateless persons who are legally permanently resident in the Republic of Lithuania, where he is born in the Republic of Lithuania, acquires the citizenship of the Republic of Lithuania (at birth). Moreover, a child whose parents are unknown, deceased or declared missing is considered to be born in the territory of the Republic of Lithuania and acquires the citizenship of the Republic of Lithuania, unless the child has acquired citizenship of another state or other circumstances are discovered by reason of which the child would acquire the citizenship of another state.</p>
Luxembourg	Yes	<p>1. No. However, a Judgment of 27 October 2015 the Administrative Court granted the applicant the stateless status to an individual who had renounced to his nationality voluntarily but justified by external circumstances. It was held that the burden of proof is on behalf of the applicant, but it is limited to determine that s/he does not have any of the nationality of the pertinent countries for him/her meaning the country in which he was born, in which his family members reside, where he lived before. A regular residence, nor a regular presence constitute necessary conditions necessary for applying and recognizing statelessness.</p> <p>2. On 23 March 2016, the Ministry of Justice introduced the bill no. 6974 on approval of the 1961 Convention on the reduction of statelessness. With the approval of the Convention, the Luxembourgish government wants to confirm its engagement to fight statelessness and to actively cooperation at international level in the domaine of nationality issues. Luxembourg has for the moment an administrative practice on the determination of statelessness (See LU EMN NCP Ad-hoc query on recognition of statelessness).</p> <p>3. No. The recognition of the statelessness status to an individual does not grant automatically a residence permit. The applicant must meet the necessary conditions of one of the categories of authorisation of stay foreseen in the amended law of 29 August 2008 on free movement of persons and immigration to be granted a residence permit.</p> <p>Yes, once a stateless person obtains a residence permit and fulfills the time requirement and all the conditions established in the law of 23 October 2008 on Luxembourgish nationality. The conditions to be fulfilled are to:</p> <ul style="list-style-type: none"> • Be over 18 years of age at the time the application is submitted; • Have legally and actually resided in Luxembourg for seven consecutive years. - For persons recognised in Luxembourg as refugees in the sense of the Geneva Convention, the period between the date of submission of their application for asylum and the date their status as refugee is recognised by the competent minister is taken into account in the calculation of the seven years. A certificate issued by the Minister responsible for immigration should be submitted as evidence. • Have passed an oral test in the Luxembourgish language: The level of oral expression corresponds to level A2 of the Common European Framework of Reference for languages in oral expression and interaction. The level of oral comprehension corresponds to level B1.

		<p>â € Have attended three civic instruction sessions: There is no test at the end, but certificates of participation are issued to the interested parties. â € Meet the integrity requirements. Naturalisation is refused to an applicant: ï - who has made false statements, hidden important facts acted fraudulently within the scope of his or her application for naturalisation; ï - who has been sentenced, in Luxembourg or another country, to a criminal penalty or imprisonment for a period of one year or more for an action that constitutes a criminal offence in Luxembourg law. The offence does not constitute an obstacle to naturalisation when the penalty was definitively executed more than 15 years before submission of the application for naturalisation.</p>
Netherlands	Yes	<p>1. Not yet, a determination procedure is currently being drafted.</p> <p>2. Yes. Trb. 1967, 124, published on 13 september 1967.</p> <p>3. Statelessness as such does not grant a right to a residence permit. A stateless person also has to meet the general conditions for regular residency or asylum in order to obtain a residence permit. An asylum permit may be granted to a stateless person, depending on the merits of the individuals claim of persecution in the in the country of former habitual residence, or depending on the general situation in the country of former habitual residence. Stateless persons that are not in need of protection may be granted a residence permit when they are willing but unable to return to their country of former habitual residence.</p> <p>4. Yes, there is facilitated access to the Dutch nationality for stateless persons. Stateless persons may acquire the Dutch nationality by naturalization after they have resided in the Netherlands with a valid residence permit for three years. The standard period for naturalization is five years. A valid travel document is not required and stateless persons also pay a reduced fee for naturalization. Stateless persons who are born stateless in the Netherlands can obtain Dutch nationality by option (which is a simplified procedure of acquiring the Dutch nationality) when they have resided in the Netherlands for three years in the possession of a valid resident permit.</p>
Poland	No	
Portugal	Yes	<p>1. No.</p> <p>2. Portugal is a State Party of the Convention on the reduction of statelessness that has been adopted by a Parliament Decision in 2012.</p> <p>3. No. In Portugal, the legal framework of entry, permanence, exit and removal of foreigners (Act 23/2007 of July 4, as amended in Law 29/2012 of August 9), is applied to stateless persons (Article 4). Once stateless persons fulfill the criteria set out in Article 77 (Law 23/2007 of July 4), they can be beneficiaries of a resident permit. The criteria are: -have valid resident visa; -no obstacles to get the visa; -be in Portuguese territory; -own livelihood; -housing; -be registered with the Social Security when applicable; -have not convictions for crime punishable by deprivation of liberty for a period exceeding one year; -not be in an entry ban period in the country due to a removal order; -no indication in SIS or in SII-SEF for admission under Article 33.</p> <p>4. The individuals born in Portuguese territory and who donât have any other nationality are Portuguese.</p>
Slovak Republic	Yes	<p>1. No, there have been neither legislative nor administrative changes since 2015.</p> <p>2. As for statelessness, Slovak legislation is based on two international agreements of the United Nations: 1. Convention Relating to the Status of Stateless Persons and an amendment to this convention which entered into force in the Slovak Republic on 2 July 2000 based on the Article 39 (2) of this convention (announcement of the Ministry of Foreign Affairs of the Slovak Republic no. 206/2001 Coll.) 2. Convention on the Reduction of Statelessness which entered into force in the Slovak Republic on 2 July 2000 based on the Article 18 (2) of this convention (announcement of the Ministry of Foreign Affairs of the Slovak Republic no. 192/2001 Coll.) Slovak Republic guarantees requirements listed in these conventions and thus fulfills its international obligations in order to prevent statelessness. These measures are regulated by the Act no.40/1993 Coll. on state citizenship of the Slovak Republic, Act no. 404/2011 Coll. on Residence of Aliens as well as in other legally binding norms.</p>

Ad-Hoc Query:**Statelessness: minors born in exile and unaccompanied minors (part 1)**

		<p>3. A person who is considered stateless can be granted a permanent residence permit in the Slovak Republic for an indefinite period of time. A stateless person does not have a separate status. When a person is identified stateless during the process of his/her residence permit application in the Slovak Republic, he/she is granted a status of a third country national.</p> <p>4. Slovak citizenship can be granted to an applicant who is considered a stateless person with residence in the Slovak Republic for at least three consecutive years directly prior to submitting his/her application for being granted Slovak citizenship. (In case of third-country nationals the requirement is their permanent residence for at least 8 consecutive years prior to submitting his/her application for being granted Slovak citizenship.). For children born or found in the territory of the Slovak Republic please see part 2 of this AHQ.</p>
Slovenia	Yes	<p>1. Republic of Slovenia has not made any legislative or administrative changes in the recognition procedures of statelessness since 2015.</p> <p>2. No. The Republic of Slovenia has examined closely the provisions of the convention and currently has reservations about the application of Article 12 in connection with Article 1. Nevertheless the current legislation contains most of the recommendations of the convention, in some cases provides easiest conditions for the acquisition of citizenship.</p> <p>3. We do not have any specific procedure for stateless person in order to obtain a residence permit she/he need to apply under regular procedure. Anyhow the Alien Act also foreseen in Article 3. where more favourable for stateless persons, the provisions of the Convention on the Legal Status of Stateless Persons (Official Gazette of the Republic of Slovenia â International Treaties, no. 9/92) shall apply to them. In cases when the principle of reciprocity is required for exercise for aliens a stateless person may be exempt from this principle if they have resided in the Republic of Slovenia for at least three years.</p> <p>4. A stateless person may obtain the citizenship of the Republic of Slovenia by naturalisation if he/she has actually been living in Slovenia continuously for 5 years prior to submitting the application, if he/she has the legal status of an alien and if he/she fulfils the other legal conditions: 1. that the person and persons who he/she has to support have guaranteed funds that enable material and social security; 2. that the person has a command of the Slovenian language for the purposes of everyday communication, which he/she shall prove with a certificate verifying that he/she successfully passed a basic level exam in Slovenian; 3. that the person has not been sentenced to an unconditional prison sentence longer than three months, or that the person has not been sentenced to a conditional prison sentence with a trial period longer than one year; 4. that the person has settled all tax obligations.</p>
Spain	Yes	<p>1. No. The Spanish Office for Asylum and Refugees has not made any change in the procedure.</p> <p>2. No, Spain did not ratify the Convention. However, the Spanish Law protects stateless persons. According to the article 17 c) of the Spanish Civil Code, â those born in Spain of foreign parents if both of them should be without nationality or if the legislation of neither should grant a nationality to the childâ are Spaniards by birth.</p> <p>3. Yes. The article 13 of the Regulation for the Recognition of the Status of Stateless 865/2001 of 20 July points out that â recognised Stateless persons are entitled to reside in Spainâ.</p> <p>4. No, Spain does not facilitate the access to nationality to stateless persons. They can acquire Spanish nationality if they are legal residents for an uninterrupted period of ten years immediately prior to the application.</p>

Sweden	Yes	<p>1. NO</p> <p>2. Yes. Sweden acceded to the 1961 Convention on the Reduction of Statelessness in 1969 (19 February). Please see the answer to the Query of 2015: No, Sweden has not a specific procedure to identify stateless persons. The procedure is included in the case procedure which take place when an application for residence permit is lodged. Finally when it comes to the national registration which takes place at the tax authorities, they have the possibility to make further investigation about the statelessness. When a stateless person applies for citizenship there is also a possibility to make investigation about the nationality of the person (i.e. if there are some doubts about the identity).</p> <p>3. No, not in itself. The person can apply for residence permit in Sweden. (The person can apply for asylum or apply for residence permit due to family reunification, work or studies.) Claims are considered on an individual basis. For a stateless person to be granted asylum or refugee status in Sweden, he or she has to show that there are substantial grounds for believing that he or she would be exposed to a real, personal and concrete risk of being subjected to persecution, ill-treatment or harassment if returned to country of former habitual residence. If an asylum seeker does not meet the requirements for a residence permit as a refugee, the Swedish Migration Agency will consider whether he or she instead meets the requirements for a residence permit because of strong humanitarian considerations.</p> <p>4. A person that has been granted permanent residence permit in Sweden and has been residing here can apply for citizenship. To become a Swedish citizen the person must: â €be able to prove his/her identity â €have reached the age of 18 â €have a permanent residence permit, a right of residence or residence card in Sweden â €have fulfilled the requirements for period of residence (lived in Sweden for a specified period) â €have conducted himself/herself well in Sweden. A stateless is required to have been resident in Sweden for at least four years (normally the required period is five years). The main objective in Sweden is to avoid children becoming stateless. For this reason, a stateless child that is born in Sweden can become a Swedish citizen by submitting a notification. The child can become a Swedish citizen through notification if the child â €has a permanent residence permit, right of residence or residence card in Sweden â €has lived in Sweden with a residence permit for settlement for three years or, if the child is stateless, for two years â €has not turned 18.</p>
United Kingdom	Yes	<p>1. Yes. In February 2016, the procedure in relation to interviewing was amended. We no longer interview in every case. Although an interview will normally be arranged in most cases, the policy allows for this to be omitted where the decision can be made based on other evidence that has been obtained. The guidance has been updated and is available on the Home Office website here - https://www.gov.uk/government/publications/stateless-guidance.</p> <p>2. Yes. The UK signed the 1961 convention in 1961 and ratified it in 1966.</p> <p>3. The 'residence' granted is set out in paragraph 405 of the Immigration Rules. An applicant who meets the requirements of Immigration Rule 403 may be granted limited leave to remain for a period not exceeding 30 months (2.5 years). Immigration Rule 403 states that the requirements for leave to remain in the United Kingdom as a stateless person are that the applicant: (a) has made a valid application to the Secretary of State for limited leave to remain as a stateless person; (b) is recognised as a stateless person by the Secretary of State in accordance with paragraph 401; (c) is not admissible to their country of former habitual residence or any other country; and (d) has obtained and submitted all reasonably available evidence to enable the Secretary of State to determine whether they are stateless.</p> <p>4. After 5 years of continuous residence an application for settlement (Indefinite leave to remain) Can be made. Settlement will normally be granted if they continue to meet the requirements. After 12 months they can then apply for citizenship.</p>

Ad-Hoc Query:
Statelessness: minors born in exile
and unaccompanied minors (part 1)

Norway	Yes	<p>11. No changes since 2015. Norway does not have a stateless determination procedure as such. A person's claim to be stateless is examined as part of the identity determination, according to documentation requirements, procedures and criteria corresponding to those used to determine a claim to having a stated nationality. If a person claiming to be stateless is granted a residence permit in Norway s/he is given the same rights and obligations as others who are granted the same type of residence permit When applicants come to Norway and apply for asylum there are no particular procedures to evaluate statelessness as an independent ground for granting residence. The case will be evaluated according to the normal considerations for granting refugee/ residence on humanitarian grounds. Stateless individuals have the right to international protection according to the Refugee Convention, on the same basis as applicants with citizenship. The question about statelessness will in that case be evidence based as long as the applicant has claimed statelessness and there is no reason to believe otherwise. If the person is stateless the refugee consideration will be made in relation to the country where this person previously was residing. If the applicant is persecuted because of their statelessness, given that the exclusion rules do not apply, this will give grounds for granting protection in Norway. If the person does not fulfill these conditions for asylum they can be evaluated for a residence permit based on humanitarian grounds. If neither of these considerations lead to a permit, the application will be denied and return to the previous country of residence will be required. There are no plans to establish other mechanisms to determine statelessness than the ones described above, which relate to asylum, residence permits and citizenship.</p> <p>2. Norway has ratified both the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. For the time being, we have, however, no structure designated to the task of granting status as stateless as such.</p> <p>3. Normally, yes. Normally a stateless applicant is granted refugee status, or issued a residence permit based on humanitarian grounds. Normally this is valid for a period of 3 years and after that the applicant can apply for permanent residence. Stateless applicants will also be able to get Norwegian citizenship more quickly than if they had citizenship in another country.</p> <p>4. A stateless person who is granted refugee status, humanitarian protection or any other permit of stay in Norway has the same rights and obligations as any other individual that was granted the same type of residence permit and having a specific citizenship. While a stateless person may obtain Norwegian citizenship after only three years of legal residence in Norway, cf. to Section 16 in the Norwegian Nationality Act, other categories of persons who have a nationality will only be qualified to obtain Norwegian citizenship after five or seven years of residence in Norway. **For applicants who are stateless, the conditions set out in section 7, first paragraph (b), (e) and (h) shall not apply. A person who by his or her own act or omission has chosen to be stateless, or who in a simple way can become a national of another country, is not deemed to be stateless. However, a stateless applicant who has reached the age of 18 must have resided in the realm for the last three years with work or residence permits of at least one year's duration. Residence during one or more application-processing periods shall be included when calculating the three-year period.</p>
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