

European Migration Network Platform on Statelessness

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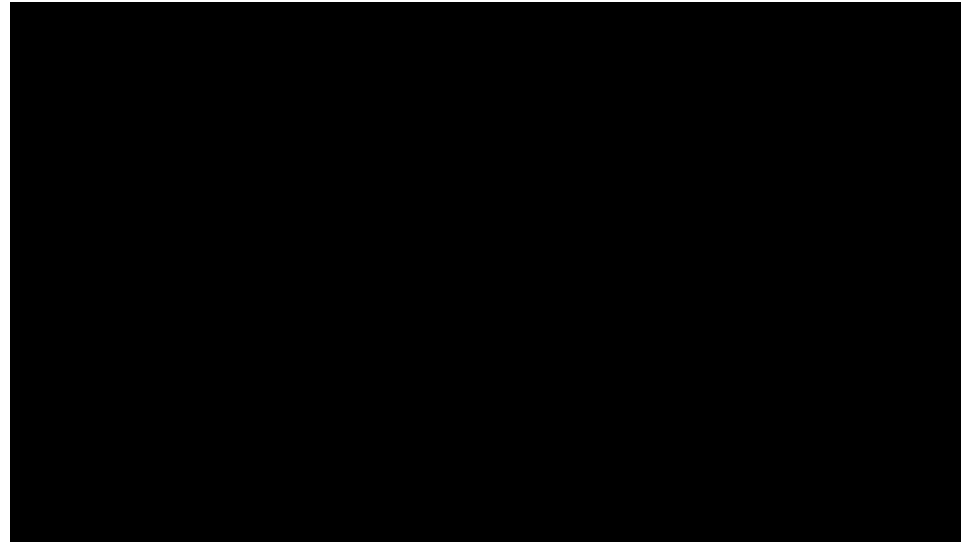
**EMN Statelessness Retreat
Hotel Golden Age, Athens**

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EUROPEAN MIGRATION NETWORK (EMN)

- Established in 2003 by the European Commission on behalf of the European Council (Council Decision 2008/381/EC)
- 29 National Contact Points, of which 27 are located in EU Member States (Denmark has observer status) plus Norway & Switzerland.
- The aim of the EMN is to:
 - provide the European and national institutions and agencies as well as the general public with ***up to date, objective, comparable data and information*** concerning migration and asylum related issues
 - in order to provide ***impartial information*** to support the current discourse on migration and
 - to ***support policy decision*** processes within the European Union

EUROPEAN MIGRATION NETWORK (EMN)



What is 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
- 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 post 2015 Migration Crisis

Applications from stateless persons for international protection in the EU (2012 – 2017)

	2012	2013	2014	2015	2016	2017
Stateless applicants	3,515	9,670	15,655	19,605	10,720	5,380
Total n° of applications	278,280	367,825	562,680	1,257,030	1,206,120	650,970
Percentage	1.3%	2.6%	2.8%	1.6%	0.9%	0.8%

Source: Eurostat, 2018

Recognition rate of applications for international protection made by stateless persons in the EU (2016)

	Total	Positive decisions	Geneva Convention status	Subsidiary protection status	Humanitarian status	Rejected	% of positive decisions	% of negative decisions
N° decision on stateless persons applications	18,175	16,250	12,365	3,365	515	1,925	89.4%	10.6%
Total n° of decisions	1,106,405	672,900	366,485	257,915	48,505	433,505	60.8%	39.2%
Percentage	1.6%	2.4%	3.4%	1.3%	1.1%	0.4%	-	-

Source: Eurostat, 2018

EMN Platform on Statelessness

- Platform was created by 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 the LU EMN NCP and the EMN Statelessness working group coordinates activities of the platform

Platform's 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
- Identify and follow up reference cases on statelessness in the Member States

EMN Statelessness Inform: Key findings (1/3)

- **Legislation**

- 24 Member States are State Parties to the 1954 Convention Relating to the Status of Stateless Persons (1954 Convention)
- 19 Member States are State Parties to the 1961 Convention on the Reduction of Statelessness (1961 Convention)
- CY has introduced bill to accede to the 1954 Convention.

- **Procedures**

- No homogeneity among Member States regarding statelessness determination procedures (SDP)
- Four main statelessness determination procedure categories:
 - Dedicated determination procedures (administrative)
 - General procedure or inside another procedure (administrative)
 - Ad-hoc procedures (administrative)
 - Judicial procedures (BE and IT - when the applicant is not a legal resident in the country)

EMN Statelessness Policy Brief: Key findings (2/2)

- In the majority of MS there is *no direct link* between the determination of statelessness and the issuing of a specific residence permit
- Access to the labour market, education and training (as well as health care/social aid) does not depend on the determination of statelessness but on the *residence permit* that the stateless person can obtain
 - = legal vacuum for stateless persons who cannot obtain a residence permit even where their stateless status has been identified

EMN Statelessness Policy Brief: Key findings (2/3)

- Most MS facilitate - to some extent - access to nationality for children born stateless in their territory
 - In most Member States *legal gaps remain* meaning that some children born as stateless in their territory cannot have access to nationality
- No specific determination procedure for stateless *unaccompanied minors*
- With the exception of a few MS, *children born en route to the EU* who arrive without a birth certificate cannot obtain a birth certificate or an equivalent document in the country of arrival

- allow for individual application and ex officio referral
- ensure easy access to the procedure to everyone
- no time limit for application



Submit application

Individual interview and assessment of evidence

Statelessness is recognized

Application is rejected

- centralized procedure
- reasonable time limit
- shared burden of proof
- standard of proof: reasonable degree

- right of appeal on fact and law
- independent appeal body

Appeal

Granted

Rejected

Rights under the 1954 Convention

- identity papers and travel documents
- wage-earning employment and self-employment
- social security
- facilitated naturalization

Other rights

- access legal aid
- access interpreter
- ensure confidentiality requirements for refugees and asylum seekers upheld
- rights of applicants during the procedure (social assistance, non-removal etc)

“Addressing Statelessness in the European Union, One year on from the adoption of European Council Conclusions” (Joint conference EMN, UNHCR & ENS)

- *A practically-oriented approach is necessary* in regard to vulnerable stateless individuals in each EU MS
- There is concern for the *vulnerability of children in the statelessness context*, including the disappearance of UAMs who arrive in Europe
- There is *no common statelessness determination procedure in EU* between Member States
- There should be a clear differentiation between the Statelessness Determination Procedure (SDP) and the asylum procedure:
 - Need for separate procedure to safeguard SDP from becoming additional element of asylum procedure

Proposed EMN Platform Action Plan

- A mapping exercise to identify **vulnerable** stateless persons in Member States, as a first step and then expand this action to other stateless individuals
 - Requires coordination with NGOs and international organisations (UNHCR and UNICEF)
- Foster and develop a **common approach** for Member States to use when aiming to introduce or improve a Statelessness Determination Procedure at the national level
- The Platform will contribute through the **exchange of good practices and the development of non-binding guidelines**
- **Estimate costs** of regularizing the situation in Member States in order to bring this under Member States Practitioner's Agenda

EMN Platform future actions

- Creation of a working space in an IT platform (AMI) where information, contributions and best practices can be shared and discussed between EMN NCPs, international organisations, NGOs and civil society
- Continue to provide technical information to EU Member States on statelessness issues
- Organize a technical conference to take stock of the progress on deliverables in advance of the next annual conference
- Continue to raise awareness on statelessness issues within Member States

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