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**NOTE**

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From:	Presidency
To:	Asylum Working Party
Subject:	Statelessness and international protection in the EU

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Statelessness is a legal anomaly, which affects people who are not considered a national by any state, whether born stateless or having become stateless later in life. Being stateless does not mean to be in need of protection; it means having no fundamental rights. Therefore, stateless persons and refugees are two distinct categories in international law, but, of course, a person can be both, a refugee and stateless.

There are around half a million stateless persons in Europe, the vast majority of whom are registered as applicants for international protection. Some of them were registered with an unknown nationality and therefore, they would be placed in a system designed to be addressed to persons having a nationality of the country against where they are looking for protection.

Having no specialized systems for detection and identification of stateless people does not allow those persons to receive the solution they need, the protection they deserve and the social, civil and economic rights they should always have had. Nevertheless, having no specialized systems for detection and identification of statelessness also leads countries to use procedures, resources, and public funds in the examination of applications that are not looking for international protection, having a negative impact on the Asylum system.

However, statelessness enjoys no harmonized framework and approach throughout the EU.

On the one hand, not all the Member states are parties to the main statelessness international conventions. There are 24 Member States which are State Parties to the 1954 Convention Relating to the Status of Stateless Persons, which provides the definition of a stateless person and constitutes the foundation of its international legal framework. And 20 Member States are State Parties to the 1961 Convention on the Reduction of Statelessness, which sets rules for the conferral and withdrawal of citizenship, provided that certain conditions are met, aiming to prevent and reduce statelessness.

On the other hand, even for those Member States bound by those conventions, there is no common framework from the administrative point of view either, since those international instruments do not provide harmonization among EU Member States on the procedures they use to determine statelessness (1954 Convention does not prescribe a particular mechanism for determining statelessness).

Two different initiatives contribute to raise awareness to statelessness and push to end with this phenomenon in the EU: First, in October 2013, the UN High Commissioner for Refugees called for the “total commitment of the international community to end statelessness” and launched the Global Action Plan to End Statelessness: 2014-2024. This Plan, developed in consultation with States, civil society and international organizations sets out a guide framework made up of 10 Actions that need to be taken to end statelessness within 10 years; Secondly, under the JHA Council Conclusions on Statelessness of 3 and 4 December 2015 (document No. 14978/15), the EMN was entrusted with the creation of a platform to exchange information and good practices in the field of statelessness. 3 reports have been issued by it (2016, 2020 and 2023).

However, stateless persons are largely present in several ways in many of the Pact related legislative files. As the negotiations of the Pact advance, discussions should take place within the Council on the best way forward to have a consistent approach on statelessness across files.

Bearing this in mind, the Spanish Presidency would like to complement these debates by examining the issue of statelessness at expert level within the Asylum Working Party, as this phenomenon is present both in Member States' asylum systems and throughout all the files of the Pact on Migration and Asylum.

These issues, among others, were discussed in Madrid on the occasion of the Conference addressing Statelessness in Europe, which took place in Madrid on 8-9 June 2023. The Conference was organised by the European Network on Statelessness (ENS) in collaboration with Fundación Cepaim and the University Complutense de Madrid, with the support of the Spanish authorities. The pan-regional conference in Madrid aimed primarily at raising awareness about statelessness.

The conference took place on the eve of Spain assuming the Presidency of the Council of the European Union and brought together more than 200 participants from 34 countries – stateless changemakers, community organisations, civil society actors, lawyers, academics, and representatives from governments, UN and regional institutions.

In this context, the Spanish Presidency would like to focus on two main areas:

#### A. STATELESSNESS AND THE EU PACT ON MIGRATION AND ASYLUM

The Spanish Presidency is committed to reach a general agreement on the Pact on Migration and Asylum by the end of its semester, in line with the Joint Roadmap signed with the European Parliament, so that all the files can be formally adopted before the end of the legislative term.

As negotiations on the Pact are ongoing, statelessness has become an item across files, not only because it was already included in the Commission's original proposals, but also because several provisions are foreseen in both the Council and the European Parliament mandates. The Spanish Presidency would like to hear the delegations' views on how statelessness should be better regulated in a consistent manner.

## B. STATELESSNESS THROUGHOUT MEMBER STATES' NATIONAL PRACTICES

The Spanish Presidency would also like to launch a joint reflection about statelessness among the members of the Asylum Working Party. To that end, the Presidency would like to hear Member States about their national practices. In particular, the Presidency invites delegations to provide information and analysis on the following questions:

- What progress has been made by Member States since the adoption of the Conclusions of the Council and the Representatives of the Governments of the Member States on Statelessness adopted in December 2015?
  - What is the relation between the international protection procedures and other procedures in the case of stateless persons?
  - If the statelessness determination is regulated in a specific procedure, does it have an impact in terms of reducing the administrative burden on the asylum systems?
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