

# Input by civil society to the 2022 Asylum Report

Fields marked with \* are mandatory.

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C o l l e a g u e s ,

The production of the *Asylum Report 2022* is currently underway. The annual [Asylum Report series](#) present a comprehensive overview of developments in the field of asylum at the regional and national levels.

The report includes information and perspectives from various stakeholders, including experts from EU+ countries, civil society organisations, UNHCR and researchers. To this end, we invite you, our partners from civil society, academia and research institutions, to share with us your reporting on developments in asylum law, policy or practice in 2021 (and early 2022) by topic as presented in the online survey.

Please note that the Asylum Report does not seek to describe national systems in detail but rather to present key developments of the past year, including improvements and challenges which remain. Your input can cover practices of a specific EU+ country or the EU as a whole. You can complete all or only some of the sections.

All submissions are publicly accessible. For transparency, 2022 contributions will be published on the EUAA webpage. For reference, contributions to the 2021 Asylum Report by civil society organisations can be accessed [here](#), under 'Acknowledgements'. All contributions should be appropriately referenced. You may include links to supporting material, such as analytical studies, articles, reports, websites, press releases or position papers. If your organisation does not produce any publications, please make reference to other published materials, such as joint statements issued with other organisations. Some sources of information may be in a language other than English. In this case, please cite the original language and, if possible, provide one to two sentences describing the key messages in English.

The content of the Asylum Report is subject to terms of reference and volume limitations. Contributions from civil society organisations feed into EUAA's work in multiple ways and inform reports and analyses beyond the Asylum Report.

Your input matters to us and will be much appreciated!

\*Please complete the online survey and submit your contribution to the 2022 Asylum Report by **Monday, 21 February 2022**.\*

[Instructions](#)

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Before completing the survey, please review the list of topics and types of information that should be included in your submission.

For each response, only include the following type of information:

- New developments and improvements in 2021 and new or remaining challenges; and
- Changes in policies or practices, transposition of legislation or institutional changes during 2021.

Please ensure that your responses remain within the scope of each section.

## Contributions by topic

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### **1. Access to territory and access to asylum procedures (including first arrival to territory and registration, arrival at the border, application of the non-refoulement principle, the right to first response (shelter, food, medical treatment) and issues regarding border guards)**

December 2021 saw the publication of a new EASO practical guide on registration, which includes a helpful section on identifying and registering initial indications of statelessness. It will be important to ensure this tool is widely disseminated and implemented by officials responsible for registration, including to improve consistency in how nationality and statelessness is identified and recorded across Europe. It is also very positive that last year's EASO Annual Report included a focus on statelessness and awareness of the issue has certainly grown amongst civil society actors and in some EU+ States as more visibility is given to statelessness in the migration/asylum context. In part, this has been facilitated through ENS and partners' Stateless Journeys initiative, which provides information and practical tools for refugee response actors ([www.statelessjourneys.org](http://www.statelessjourneys.org)). However, there is still generally limited awareness of statelessness among officials; there is a lack of clarity around the definition of a stateless person and limited reference to the 1954 Convention in the EU asylum acquis; most EU+ States still do not have a statelessness determination procedure established in law to which officials can refer individuals if they claim to be stateless; there is a lack of available information about who may be stateless or at risk of statelessness, and only limited training to facilitate accurate identification and registration. This can lead to officials conflating country of origin or former residence with country of nationality or recording an imputed nationality based on language or accent. Crucially, it also leads to protection needs and States' obligations under the 1954 Convention being unfulfilled as they remain unidentified. For this reason among others, in September 2021, ENS published a thematic Statelessness Index briefing on statelessness determination and protection in 27 European countries, detailing protection gaps, challenges risks and good practices ([https://index.statelessness.eu/sites/default/files/ENS-Statelessness\\_determination\\_and\\_protection\\_in\\_Europe-Sep\\_2021.pdf](https://index.statelessness.eu/sites/default/files/ENS-Statelessness_determination_and_protection_in_Europe-Sep_2021.pdf)).

### **2. Access to information and legal assistance (including counselling and representation)**

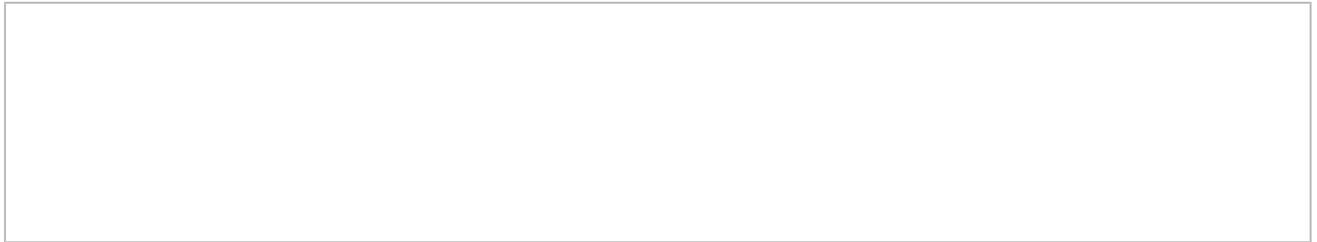
There is still a lack of information and resources for all actors on statelessness and nationality problems, although this has improved somewhat in recent years through the work of ENS and its members under the Stateless Journeys initiative ([www.statelessjourneys.org](http://www.statelessjourneys.org)) and improvements by other actors, including EUAA to include information on statelessness in its outputs and practical tools. For example, under ENS's Stateless Journeys project, partners have been carrying out (online) training and capacity-building workshops for refugee response actors in Spain, Greece, and Serbia, leaflets are available to download from the Stateless Journeys website in multiple languages for refugees and refugee practitioners, and a toolkit to support the identification of statelessness in the refugee context is currently being finalised by ENS member, Forum Réfugiés-Cosi in France, which will be translated and a template made available to adapt to other country contexts.

**3. Provision of interpretation services (e.g. introduction of innovative methods for interpretation, increase/decrease in the number of languages available, change in qualifications required for interpreters)**

**4. Dublin procedures (including the organisational framework, practical developments, suspension of transfers to selected countries, detention in the framework of Dublin procedures)**

**5. Special procedures (including border procedures, procedures in transit zones, accelerated procedures, admissibility procedures, prioritised procedures or any special procedure for selected caseloads)**

**6. Reception of applicants for international protection (including information on reception capacities – increase/decrease/stable, material reception conditions - housing, food, clothing and financial support, contingency planning in reception, access to the labour market and vocational training, medical care, schooling and education, residence and freedom of movement)**



**7. Detention of applicants for international protection (including detention capacity – increase /decrease/stable, practices regarding detention, grounds for detention, alternatives to detention, time limit for detention)**

There continue to be many gaps in European countries' legal frameworks and practice to prevent the arbitrary detention of stateless persons. The latest annual update of data in the ENS Statelessness Index (forthcoming end March 2022) shows that many countries still do not publish data on the nationality /statelessness of people detained in immigration detention. Key safeguards such as ensuring a proposed country of removal is identified prior to detaining for removal, conducting vulnerability assessments, ensuring that stateless people are identified, and guaranteeing that detention is only ever used as a measure of last resort, and after all alternatives have been considered in each individual case, are missing in several countries. The consistent provision of information about statelessness, referral from detention to procedures to determine statelessness and granting of identification documents to ensure that stateless people are protected from re-detention are still lacking in most countries.

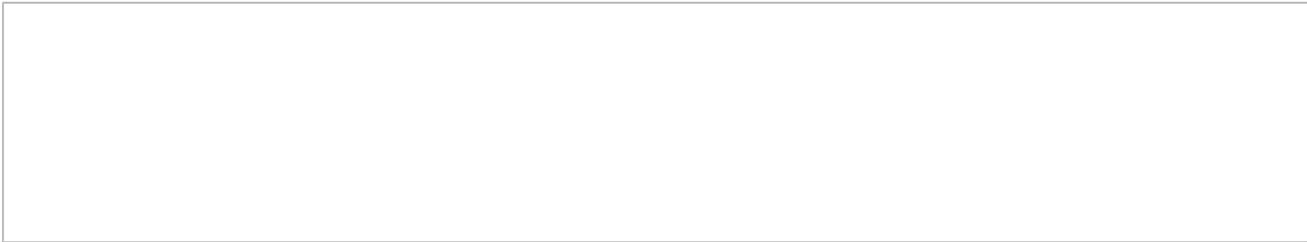
**8. Procedures at first instance (including relevant changes in: the authority in charge, organisation of the process, interviews, evidence assessment, determination of international protection status, decisionmaking, timeframes, case management - including backlog management)**

Statelessness can impact on first instance asylum procedures in different ways (see [www.statelessjourneys.org](http://www.statelessjourneys.org)) and awareness and knowledge of this remains relatively low among relevant actors. Mechanisms are lacking to ensure that where an individual claims to be stateless or where there are indications of statelessness during international protection procedures, they are referred to a dedicated statelessness determination procedure (SDP) to have their statelessness status determined in line with international standards. This is important to ensure that if refused refugee or subsidiary protection, an individual's protection needs under the 1954 Convention are adequately assessed in line with due process standards and with procedural safeguards. This determination is also important regardless of whether an individual is granted another form of international protection, as statelessness will impact on their access to other rights, including facilitated routes to naturalisation as required by international law, the rights of any children, and their ability to continue receiving protection as stateless persons upon cessation of international protection – which is also an important safeguard to prevent arbitrary detention. Poland, Cyprus and Estonia still have not acceded to the 1954 Convention. No further EU MS introduced SDPs in 2021, although discussions to this end are underway in the Netherlands, Malta, and Portugal. EU MS who have established SDPs to date include France, Spain, Italy, Hungary, Latvia, and Bulgaria. In the NEAR & Enlargement region, Ukraine and Albania introduced new SDPs in law in 2021, although in Albania the new procedure is still to be operationalised through the introduction of the requisite bylaws. In 2021, ENS published a new Statelessness Index thematic briefing analysing comparative data on the determination of statelessness and protection of stateless people across 27 European countries: [https://www.statelessness.eu/sites/default/files/2021-09/ENS-Statelessness\\_determination\\_and\\_protection\\_in\\_Europe-Sep\\_2021.pdf](https://www.statelessness.eu/sites/default/files/2021-09/ENS-Statelessness_determination_and_protection_in_Europe-Sep_2021.pdf)

Unfortunately, legal amendments in the Czech Republic in 2021 have reduced the possibility for statelessness to be determined. Amendments to domestic legislation came into force on 2 August 2021, which moved a procedure that allows the Ministry of Interior to decide on applications made according to the 1954 Convention from the 'Asylum Act' to the 'Act on Stay of Foreigners'. Until then, several jurisprudence had conferred by analogy the same rights that asylum-seekers had to applicants for statelessness determination (such as the right to stay on the territory, receive an ID during the procedure, the right to accommodation and the right to health insurance). However, the new procedure under the 'Act on Stay of Foreigners' is very unclear, there are no provisions to regulate the status of stateless applicants, nor any procedural safeguards, and the right to remain on the territory is not guaranteed.

There has been progress in recent years in some jurisdictions towards an increased awareness about the risk of statelessness among Palestinian refugees. However, Palestinians continue to face several obstacles to obtaining protection as stateless persons and/or refugees under the 1951 Refugee Convention and the 1954 Convention. Domestic jurisprudence on this topic, over recent years and particularly in 2021, reflects the varied approaches to refugee and statelessness law as applied to Palestinians. In some countries, applications for statelessness status are being rejected on the grounds that Palestine is recognised as a State (e.g. Bulgaria and Hungary, see <https://index.statelessness.eu/>). In the Netherlands, there have been cases where Palestinians are recognised as stateless in the asylum procedure but are still unable to be registered as 'stateless' in the municipal records. Across the EU, case law has been emerging from domestic and regional courts regarding the ability of UNRWA to fulfil its mission to provide protection or assistance. For example, in several judgments in early 2021, the Belgian Council for Alien Law Litigation concluded that because of the financial difficulties faced by UNRWA, the agency in general was no longer able to provide adequate assistance to Palestinians in Gaza and Lebanon, and it considered that UNRWA assistance had therefore ceased for the purposes of Article 1D and Palestinian refugees from Gaza and Lebanon who are registered with UNRWA should be automatically recognised as refugees.

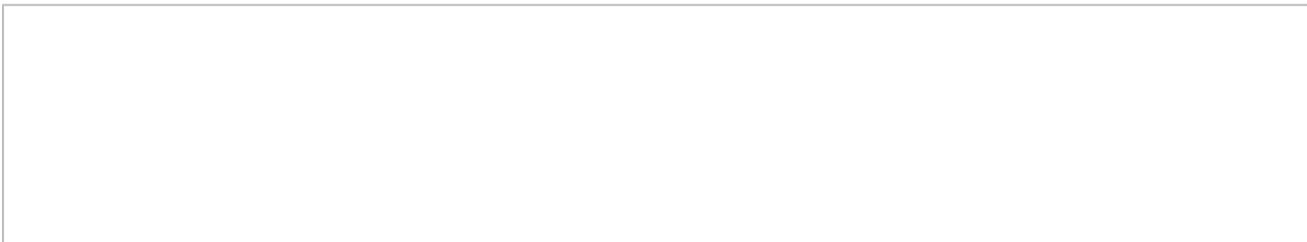
## **9. Procedures at second instance (including organisation of the process, hearings, written procedures, timeframes, case management - including backlog management)**



**10. Availability and use of country of origin information (including organisation, methodology, products, databases, fact-finding missions, cooperation between stakeholders)**

There continues to be a general lack of comprehensive information on statelessness and nationality rights in country of origin information, although this is starting to improve. For example, EASO Country Guidance on Iraq update in January 2021 included information on populations affected by statelessness ([https://euaa.europa.eu/sites/default/files/Country\\_Guidance\\_Iraq\\_2021.pdf](https://euaa.europa.eu/sites/default/files/Country_Guidance_Iraq_2021.pdf)); the UK Home Office Country Policy Information Note on Albania: Roma and Balkan Egyptians updated in October 2021 includes extensive references to statelessness and nationality issues, including to ENS resources ([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1028602/ALB\\_CPIN\\_Roma\\_and\\_Balkan\\_Egyptians.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1028602/ALB_CPIN_Roma_and_Balkan_Egyptians.pdf)). ARC Foundation published a Comparative Analysis of U.S. Department of State Country Reports on Human Rights Practices (2016-2020) which included thematic analysis (and country examples) of how statelessness is treated in the reports (<https://asylumresearchcentre.org/wp-content/uploads/2021/09/Thematic-Review-2021.pdf>). The UK's Independent Advisory Group for Country Information (IAGCI) has just announced a tender for an evaluator to support its forthcoming review of how UK Home Office country guidance products address statelessness, which is a very welcome development and we look forward to the outcome of the review in 2022 (<https://www.gov.uk/government/news/the-iagci-invites-tenders-to-evaluate-the-home-office-country-information-products-on-statelessness>)

**11. Vulnerable applicants (including definitions, special reception facilities, identification mechanisms/referrals, procedural standards, provision of information, age assessment, legal guardianship and foster care for unaccompanied and separated children)**



**12. Content of protection (including access to social security, social assistance, healthcare, housing and other basic services; integration into the labour market; measures to enhance language skills; measures to improve attainment in schooling and/or the education system and/or vocational training)**

All but three EU MS have acceded to the 1954 Convention Relating to the Status of Stateless Persons, but, as in previous years, the rights afforded to stateless people in Europe still fall short of these international obligations. In the absence of adequate procedures to identify and determine statelessness, many stateless people remain unidentified and denied access to the rights established in the Convention. Some limited progress was made in this respect in 2021. For example, the new German Government has agreed to expand both access to, and the scope of, residence permits for all undocumented people in Germany, including stateless individuals who are undocumented. Individuals living in Germany under a temporary suspension of their deportation ('Duldung') will be allowed to work. Those who have held 'Duldung' status for five years in January 2022 will be allowed to access to a one-year residence permit. This in turn provides access to longer term residence permits. However, Germany still does not have a dedicated procedure in place to identify and determine statelessness, so there remains a significant risk that stateless people will not be able to access their Convention rights.

Under the 1954 Convention, stateless people should be able to access a facilitated route to naturalisation in order to resolve their statelessness. Requirements for naturalisation are often hard (and sometimes impossible) to meet for stateless individuals. In 2021, the Dutch Government relaxed naturalisation requirements for around 10,000 individuals who were granted residence permits in a 2017. Although not targeted at stateless people, these changes may facilitate access to Dutch nationality for some stateless people who had previously been unable to provide the documents required to naturalise.

In some EU MS, the rights of stateless people (and other refugees/migrants) have been eroded in 2021. In Sweden, for example, amendments to the Swedish 'Aliens' Act, which came into force in July 2021 have made it more difficult to acquire permanent residence and therefore, more difficult and a longer process to naturalise as Swedish and resolve statelessness. Refugees no longer receive a permanent residence permit as a consequence of a positive determination of refugee status, and an individual must now have held a temporary residence permit for at least three years before being eligible to apply for permanent residence. Additionally, each individual family member must now fulfil the requirements for permanent residency.

In December 2021, the Belgian Government formally pledged to introduce a residence permit for stateless persons during the UN High Level Officials Meeting stocktaking event under the Global Refugee Forum process.

### **13. Return of former applicants for international protection**

It is vital that mechanisms are in place to identify statelessness in the context of return procedures and decisions to detain, in order to safeguard against the arbitrary detention of stateless people and ensure access to the rights and protections enshrined in the 1954 Convention. Referral mechanisms must be in place from return proceedings to procedures to determine statelessness and grant protection to stateless persons.

### **14. Resettlement and humanitarian admission programmes (including EU Joint Resettlement Programme, national resettlement programme (UNHCR), National Humanitarian Admission Programme, private sponsorship programmes/schemes and ad hoc special programmes)**

**15. Relocation (ad hoc, emergency relocation; developments in activities organised under national schemes or on a bilateral basis)**

**16. National jurisprudence on international protection in 2020 (please include a link to the relevant case law and/or submit cases to the [EUAA Case Law Database](#))**

#### Prevention of childhood statelessness:

- Spain, Auto Juzgado de Primera Instancia de Montilla, judgment from 15 October 2021: a first-instance court in Spain issued a landmark judgment positively impacting the prevention of statelessness among refugee and migrant children. The judgement concerns the registration of children born abroad who have not yet been registered in any other country. The court held that, to respect the child's right to be registered as soon as possible after birth, the Spanish authorities should register the child's birth. The court noted that, even though the child was born abroad, they had not been registered in any other country and the registration of birth is essential for the child to have a legal identity, acquire a nationality, and prevent a violation of their fundamental rights.

#### Protection of stateless persons:

- Czech Republic, Supreme Administrative Court, Applicant v Czech Ministry of Interior, no. 4 Azs 149 /2020-64, judgment of 21 December 2021: recognition of statelessness status does not lead to permanent residence and stateless people are regarded as foreign nationals under the Act on Stay of Foreigners.

#### Protection of Palestinians:

- Court of Justice of the European Union, Federal Republic of Germany v XT, C 507/19, ECLI:EU:C:2021:3, 13 January 2021
- Belgium, Council for Aliens Law Litigation, nr. 249 784, 24 February 2021, available in French at [https://www.rvv-cc.be/sites/default/files/arr/a249784.an\\_.pdf](https://www.rvv-cc.be/sites/default/files/arr/a249784.an_.pdf);
- Belgium, Council for Aliens Law Litigation, nr. 249 930, 25 Feb 2021, available in French at [https://www.rvv-cc.be/sites/default/files/arr/a249930.an\\_.pdf](https://www.rvv-cc.be/sites/default/files/arr/a249930.an_.pdf)
- Belgium, Council for Aliens Law Litigation, nr. 250 868, 11 Mar 2021, available in Dutch at [https://www.rvv-cc.be/sites/default/files/arr/a250868.an\\_.pdf](https://www.rvv-cc.be/sites/default/files/arr/a250868.an_.pdf)
- Belgium, Council for Alien Law Litigation, Applicant v Commissaire général aux réfugiés et aux apatrides (CGRS), nr. 256 667, 25 November 2021
- Germany, Federal Administrative Court, Applicant (Palestine) v BAMF, ECLI:EN:BVerwG:2021:270421U1C2.21.0, 27 April 2021
- Germany, Higher Administrative Court Saarland, 2 A 45/21, 5 October 2021
- Germany, Saarlouis Higher Administrative Court, judgement 2 A 153/21, 5 October 2021
- Netherlands, Court of the Hague, 4 June 2021, Ref no. ECLI:EN:RBDHA:2021:5664; available in Dutch at: [https://www.refworld.org/cases,NTL\\_HDC,60fae7804.html](https://www.refworld.org/cases,NTL_HDC,60fae7804.html)
- Netherlands, Dutch Council of State, 202004766/1/V1, Judgment of 14 July 2021; available in Dutch at: <https://www.raadvanstate.nl/uitspraken/@126105/202004766-1-v1/>

## 17. Other important developments in 2021

Strengthening efforts to end statelessness in Europe and guaranteeing the provision of fundamental rights to stateless people was the key theme of a conference organised on 23-24 September 2021 in Strasbourg by the Council of Europe's European Committee on Legal Co-operation (CDCJ) and UNHCR. The international conference brought together over 130 senior representatives of governments of member States, national authorities with specific expertise in nationality and statelessness issues, judges, representatives of international and regional organisations, civil society organisations and academics, as well as stateless individuals. Following the Conference, at its plenary meeting in December 2021, the CDCJ agreed further action over the coming years under its statelessness initiative. The commitments include to develop guidance on child-sensitive Statelessness Determination Procedures (SDPs), and guidance on the establishment of nationality.

## References and sources

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### 18. Please provide links to references and sources and/or upload the related material in PDF format

Relevant links are listed in answers above

### 19. Feedback or suggestions about the process or format for submissions to the Asylum Report

Please upload your file

The maximum file size is 1 MB

## Contact details

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### \* Name of organisation

European Network on Statelessness

### Name and title of contact person

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### \* Email

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I accept the provisions of the EUAA [Legal and Privacy Statements](#)

## Useful links

[EASO Asylum Report 2021 \(https://euaa.europa.eu/easo-asylum-report-2021\)](https://euaa.europa.eu/easo-asylum-report-2021)

[Executive Summary -EASO Asylum Report 2021 \(https://euaa.europa.eu/executive-summary-asylum-report-2021\)](https://euaa.europa.eu/executive-summary-asylum-report-2021)

[Bibliography for the EASO Asylum Report 2021 \(https://euaa.europa.eu/sites/default/files/EASO\\_Asylum\\_Report\\_2021-Bibliography.pdf\)](https://euaa.europa.eu/sites/default/files/EASO_Asylum_Report_2021-Bibliography.pdf)

[Summary of legislative, institutional and policy developments in asylum in EU+ countries in 2019 \(https://euaa.europa.eu/sites/default/files/easo-asylum-report-eu-developments.pdf\)](https://euaa.europa.eu/sites/default/files/easo-asylum-report-eu-developments.pdf)

[National asylum developments database \(https://euaa.europa.eu/national-asylum-developments-database\)](https://euaa.europa.eu/national-asylum-developments-database)

[EASO Asylum Report 2021 Key Findings \(https://euaa.europa.eu/sites/default/files/key\\_findings.pdf\)](https://euaa.europa.eu/sites/default/files/key_findings.pdf)

[EU+ and Country Data \(https://euaa.europa.eu/sites/default/files/europe-country-data-2020.pdf\)](https://euaa.europa.eu/sites/default/files/europe-country-data-2020.pdf)

## **Background Documents**

[Input by civil society to the 2022 Asylum Report.docx](#)

## **Contact**

[Contact Form](#)